

STATE OF CALIFORNIA
DEPARTMENT OF FOOD AND AGRICULTURE
MARKETING BRANCH



CALIFORNIA CATTLE COUNCIL LAW

CHAPTER 2.5 OF PART 2, DIVISION 22 OF THE
CALIFORNIA FOOD AND AGRICULTURAL CODE
(With Amendments Effective January 1, 2020)

California Cattle Council Law

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CALIFORNIA CATTLE COUNCIL LAW

Article 1. General

65001. Legislative Declarations

The Legislature finds and declares all of the following:

(a) The production of cattle for both beef and dairy constitutes a paramount industry of this state that not only provides substantial revenues for the state but also provides willing consumers with local and nutritious food.

(b) The raising of beef and dairy cattle provides a viable living for many Californians and serves as the economic foundation for many rural communities. Cattle producers strive to be stewards of the resources they manage and the existence of ranching in California serves the public by providing numerous environmental and aesthetic benefits that would otherwise be lost without the use of California's various range and pasture lands as working landscapes.

(c) Cattle production in California reflects a diverse set of family farmers and ranchers, including women- and minority-owned businesses, that provide a varied line of beef and dairy products through conventional, organic, grass-fed, kosher, halal, and other production methods that fill niche markets desired by willing consumers. Cattle producers vary in size from small to large based on the total number of animals raised and contribute equally to providing wholesome beef and dairy products to willing consumers.

(d) The stabilization, maintenance, and expansion of the cattle industry of California and for the expansion of local, state, nationwide, and foreign markets for California beef and other products derived from the California cattle industry are necessary in order to provide willing consumers an adequate supply of high-quality California beef and dairy products.

(e) The council's form of administration created by this chapter is uniquely situated to provide those engaged principally in the production of cattle, along with beef and other products derived from the California cattle industry, the opportunity to avail themselves of the benefits of collective action in advertising, promotion, food safety, production research, nutrition, marketing research, the collection and dissemination of production and related statistics, and public education.

65002. Purposes of Chapter

The purposes of this chapter are as follows:

(a) Most notably, to authorize and enable the secretary and the appointed governing body of the council to formulate and effectuate, directly or in cooperation with other agencies and parties, research relating to all types of California cattle production, including nonconventional and organic methods of production. Research may be focused on, but not limited to, improving the efficiency and sustainability of the California cattle industry, the development of management practices and

assistance with compliance for rules and regulations that govern the production of cattle in California, the nutritional qualities of California beef and other products derived from the California cattle industry, public consumption patterns and trends, sales stimulation, and the development of consumer or other educational programs designed to increase the use and consumption of California beef and other products derived from the California cattle industry by willing consumers.

(b) To enable the California cattle industry to develop, maintain, and expand the local, state, nationwide, and foreign markets for all types, conventional and nonconventional, of California beef and other products derived from the California cattle industry.

(c) To enhance the California cattle and dairy industries, create a favorable environment for California cattle producers to operate, and improve the competitiveness of California cattle producers in both the national and international marketplace.

(d) To enable the council to present facts to local, state, federal, and foreign agencies on matters that affect the California cattle industry and the production of California beef and dairy cattle, beef, and other products derived from the California cattle industry.

(e) To provide funds for the administration and enforcement of this chapter by mandatory fees to be collected in the manner that is prescribed in this chapter, unless producers elect to receive a refund of those funds pursuant to Section 65075.

65003. Chapter liberally construed; severability

This chapter shall be liberally construed. If any provision of this chapter or the application of this chapter to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of the chapter that can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

65004. Council members; interest of particular industry; public interest

It is hereby declared as a matter of legislative determination that council members and alternates are intended to represent and further the interest of the particular industry concerned and that this representation and furtherance is intended to serve the public interest. Accordingly, the Legislature finds that with respect to persons who are elected or appointed to the council, the particular industry concerned is tantamount to and constitutes the public generally within the meaning of Section 87103 of the Government Code.

Article 2. Definitions

65011. Definitions

Unless the context otherwise requires, the definitions in this article govern the construction of this chapter.

65012.

- (a) “Beef” means the meat of cattle and includes veal.
- (b) “Cattle” and “beef cattle” are synonymous and mean bovine animals of any breed, regardless of age.
- (c) “Cattle feeder” means a producer raising cattle in confined spaces for the purposes of finishing cattle for market.
- (d) “Council” means the California Cattle Council.
- (e) “Department” means the Department of Food and Agriculture.
- (f) “Ex officio member” means a nonvoting member of the council.
- (g) “Handler” means a person engaged in the marketing of beef that the handler has produced, purchased, or acquired from a producer, or is marketed on behalf of a producer, whether as the owner, agent, employee, broker, or otherwise.
- (h) “Member” means any member of the council.
- (i) “Other products derived from the California cattle industry” include, but are not limited to, those edible, industrial, and medicinal products produced in whole or in part from beef, dairy, or cattle.
- (j) “Processor” means a person who harvests cattle or markets products derived from cattle to willing consumers, including beef, dairy products, or other products derived from the California cattle industry.
- (k) “Producer” is a person who owns or acquires ownership of beef or dairy cattle, and who, upon request, provides proof of ownership of cattle or, for purposes of voting pursuant to this chapter, has owned beef or dairy cattle within the same calendar year as the vote occurs. A person is not a producer if the person’s only share in the proceeds of the sale of cattle or beef is a sales commission, handling fee, or other service fee.
- (l) “Range cattle producer” means a person who owns and raises cattle primarily on range or pastureland for the purpose of producing beef and other products derived from the California cattle industry.
- (m) “Secretary” means the Secretary of Food and Agriculture.

Article 3. California Cattle Council

65015. Council; composition; appointment by secretary; reflect diversity of industry

There is in the state government the California Cattle Council that consists of 11 members and 11 alternates appointed by the secretary, each of whom shall be a producer in this state who is a range cattle producer, cattle feeder, dairy producer, or processor, with the exception of the public member who shall be a resident of this state. The secretary shall appoint members and alternates to the council to reflect the diversity of California's cattle industry, including women- and minority-owned businesses, varying beef and dairy products, and cattle producers varying in size from small to large based on the total number of animals raised, as described in subdivision (c) of Section 65001.

65016. Secretary ex officio member

The secretary or the secretary's designee shall serve as an ex officio member.

65017. Council member categories; public member; county representation

(a) The secretary shall appoint to the council three range cattle producers, three cattle feeders, three dairy producers, one processor, and one public member to represent the general public.

(b) (1) Each member appointed as a range cattle producer, at the time of initial appointment, shall be a resident of a different county from the county in which any other range cattle producer members reside.

(2) Each member appointed as a dairy producer, at the time of initial appointment, shall be a resident of a different county from the county in which any other dairy producer members reside.

(c) The secretary shall use the same formula described in subdivisions (a) and (b) in the appointment of alternates.

65018. Public member; rights; limitation of rights re assessment matters

Except as otherwise provided in this section, the public member and the public member's alternate shall have all the powers, rights, and privileges of any other member or alternate, respectively, on the council, except that the public member or the public member's alternate shall not have a vote on issues regarding the assessment established pursuant to Section 65071.

65019. Member terms of office; staggered terms; filling of vacancies; removal

(a) The terms of office of the members and alternates of the council shall be three years. At the discretion of the secretary, the first appointments made under this chapter shall be so made that the terms of three members and the three members' alternates shall expire at the end of one year, three members and the three members' alternates shall expire at the end of two years, and three members and the three members' alternates shall expire at the end of three years.

(b) Any vacancy that occurs during the unexpired term shall be filled by the secretary for the unexpired term from eligible nominees. No council member or alternate shall serve more than two consecutive three-year terms. Service as an alternate does not disqualify a person to then serve two terms as a member, and a member who was appointed for a one-year or two-year term may serve two additional three-year terms.

(c) If the secretary removes a member or alternate of the council, the vacancy shall be filled in the manner as provided in subdivision (a) for the duration of the unexpired term.

65020. Quorum

Six members of the council shall constitute a quorum for the transaction of all business, including the election of officers.

65021. Chair; Vice-chair; executive committee composition; delegation of power

(a) The council shall annually select a chairperson and vice chairperson from its membership, to serve at the council's pleasure, who, together with three other members selected annually by the council, shall constitute an executive committee.

(b) The executive committee shall have and exercise powers of the council as the council may delegate to it.

65022. Council meetings; four-month interval; executive committee meetings

(a) The council shall have two regular meetings each year at times and places determined by the council.

(b) The times for regular meetings shall be fixed so that there is an interval of at least four months between each meeting.

(c) The council may hold additional meetings at any time and place at the call of the chairperson.

(d) The executive committee shall have two regular meetings each year and may hold additional meetings at any time and place at the call of the chairperson.

65023. Reimbursement for travel

Members of the council shall be reimbursed for necessary traveling and other expenses incurred in the performance of their official duties.

65024. Alternate members; powers, rights, privileges; limitations

An alternate member of the council shall sit as a regular member of the council if the regular member fails for any reason to attend any meeting of the council. An alternate member shall be compensated and reimbursed in the same manner and to the same extent as a regular member when serving and has all the powers, duties, liabilities, and immunities of the member in whose

place he or she is serving, except that the alternate to the chairperson or vice chairperson shall not succeed to the functions of these offices or sit as a regular member on the executive committee.

65025. Secretary or representative; attend meetings

The secretary or the secretary's representative shall be notified and may attend each meeting of the council.

65026. Salary prohibition

No member or alternate of the council shall receive a salary.

65027. Assessments; other funds; deposits; fidelity bond

All funds received by any person from the assessments levied under this chapter or otherwise received by the council shall be deposited in banks designated by the council and shall be disbursed by order of the council through an agent or agents as it may designate for that purpose. A private agent or agents, other than the department, shall be bonded by a fidelity bond, executed by a surety company authorized to transact business in this state, in favor of the council, in an amount of not less than twenty-five thousand dollars (\$25,000).

65028. State; council members; council employees; liability

The state is not liable for the acts of the council or its contracts. Payments of all claims arising by reason of the administration of this chapter or acts of the council are limited to the funds collected by the council. No member or alternate of the council, or any employee or agent thereof, is personally liable for the contracts of the council. No member or alternate of the council, or any employee or agent thereof, is responsible individually in any way to any other person for errors in judgment, mistakes, or other acts, either of council or omission, as principal, agent, or employee, except for his or her own individual acts of dishonesty or crime. No member or alternate of the council, or any employee or agent thereof, is responsible individually for any act or omission of any other member or alternate of the council, or any employee or agent thereof. No member or alternate of the council, or any employee or agent thereof, is liable for the default of any other member or alternate of the council, or any employee or agent thereof.

65029. Contract authority; proceedings, records are evidence

The council may enter into contracts. Copies of its proceedings, records, and acts, when authenticated, shall be admissible in evidence in all courts of the state and shall be prima facie evidence of the truth of all statements therein.

Article 4. Powers and Duties

65040. Powers and duties limited

The powers and duties of the council shall include, but are not limited to, all of those contained in this article.

65041. Adoption, modification of bylaws, rules and orders; exercise of duties

The council may adopt and from time to time alter, rescind, modify, and amend all proper and necessary bylaws, rules, and orders in accordance with council procedures for purposes of carrying out this chapter, including rules for appeals from any bylaw, rule, operating procedure, or order of the council. The council shall be charged with exercising any and all necessary duties to accomplish the objectives outlined in this chapter.

65042. Cattle, Beef Councils; projects of mutual benefit

If the council and the California Beef Council determine that a project is of mutual benefit and consistent with state and federal laws governing the California Beef Council, the project may be jointly funded by the council and the California Beef Council, subject to approval by the secretary.

65043. Executive Director; staff; conduct; secretary's authority; prohibition against lobbying

(a) The council may employ a person to serve at the pleasure of the council as the executive director of the council and other personnel. If any person employed by the council engages in any conduct that the secretary determines is not in the public interest or that is in violation of this chapter, the secretary shall notify the council of the conduct and request that corrective and, if appropriate, disciplinary action be taken by the council. If the council fails or refuses to correct the situation or to take disciplinary action satisfactory to the secretary, the secretary may suspend or discharge the person.

(b) The council may retain additional staff or agents of the council to discharge the duties outlined in this chapter.

(c) Notwithstanding subdivision (d) of Section 65002, a member, alternate member, agent, or employee of the council shall not do either of the following:

(1) Appear before any committee of the Legislature or federal government as a representative of the council unless requested to do so by that committee.

(2) Lobby in any manner as a representative of the council.

65044. Committees; appointed by council; members and nonmembers

The council may appoint committees composed of members, alternates, and nonmembers not serving with the council in any official capacity to advise the council in carrying out this chapter.

65045. Reasonable compensation; executive director; agents; contractors

The council shall approve reasonable compensation for the executive director and any agents or contractors of the council.

65046. Establish offices; incur expenses; contracts; property; advance on assessments

The council may establish offices and incur expenses, enter into any and all contracts and agreements, create liabilities, develop, own, and control the use of any intellectual or physical property, including real estate for the purpose of housing the operations of the council, and borrow funds in advance of receipt of assessments as may be necessary in the opinion of the council for the proper administration and enforcement of this chapter and the performance of its duties.

65047. Books and records; secretary's inspection; audits; annual report

The council shall keep books, records, and accounts of all its transactions, dealings, contracts, agreements, funds, and expenditures as it deems necessary. Those books, records, and accounts shall at all times be open to inspection and audit by the secretary. The council shall be subject to an annual audit by an auditing firm selected by the council with the concurrence of the secretary. The audit shall be made a part of an annual report to be posted on the council's Internet Web site and submitted to the department. In addition, the secretary may determine it is necessary to conduct, or cause to be conducted, a fiscal and compliance audit of the council.

65048. Council funds; prohibition of political contribution

Funds collected pursuant to this chapter shall not be used for political contributions.

65049. State and federal grants

The council may accept grants from state and federal entities to carry out the duties authorized by this chapter.

65050. Gather information on beef and dairy production; publication; distribution

The council may collect information about California beef and dairy production and publish and distribute, without charge, a bulletin or other communication to all eligible producers.

65051. Annual budget; statements of activities; secretary's concurrence

(a) The council shall establish an annual budget according to generally accepted accounting practices. The council shall prepare annually summarized statements of the activities in which it has been engaged in the previous annual period, and of the activities in which it proposes to engage

in the ensuing annual period. The annual budget and statements shall be made available to all eligible producers at their request and shall also be posted on the council's public Internet Web site.

(b) Before the adoption of the annual budget, the council shall submit the proposed annual budget and its statement of contemplated activities to the secretary for the secretary's concurrence.

(c) The annual budget and statement of contemplated activities shall be concurred in by the secretary before disbursement of funds, with the exception of expenditures made by the council pursuant to Section 65043.

65052. Secretary's concurrence, nonconcurrence within 15 days

When the secretary is required to concur in a decision of the council, the secretary shall give his or her response to the council within 15 working days from notification of the decision. The secretary shall set forth in writing with specificity the reasons for any refusal to concur. The secretary's response may be a requirement that additional information be provided.

65053. Reimbursement of secretary's expenses

The council shall reimburse the secretary for all expenditures incurred by the secretary in carrying out his or her duties and responsibilities pursuant to this chapter.

65054. Secretary's "correct or cease" authority; failure to comply

(a) The secretary may require the council to correct or cease any existing activity or function that is determined by the secretary not to be in the public interest or that is in violation of this chapter.

(b) If the council refuses or fails to cease those activities or functions or to make the corrections as required by the secretary, the secretary may, upon written notice, suspend all or a portion of the activities or functions of the council until the time that the cessation or correction of activities or functions as required by the secretary has been accomplished by the council.

(c) Actions of the council in violation of the written notice are without legal force or effect. The secretary, to the extent feasible, shall issue the written notice before the council entering into any contractual relationship affecting the existing or proposed activities or functions that are the subject of the written notice.

(d) Upon service of the written notice, the secretary shall notify the council in writing of the specific acts that the secretary determines are not in the public interest or are in violation of this chapter, the secretary's reasons for requiring a cessation or correction of specific existing or proposed activities or functions, and recommendations that will make the activities or functions acceptable.

65055. Administrative rules and regulations; recommendation to secretary

The council may recommend to the secretary the adoption of administrative regulations that relate to the administration and enforcement of this chapter.

65056. Lists of persons; confidentiality; voter access; volume shipments

(a) The council and the secretary shall keep confidential and shall not disclose, except when required by court order after a hearing in a judicial proceeding, all lists in their possession of persons subject to this chapter. However, the council shall establish procedures consistent with this confidentiality requirement to enable producers to communicate with other producers on the lists regarding noncommercial matters affecting the council and persons subject to this chapter.

(b) Information on volume shipments, other information that is required for reports to governmental agencies, financial reports to the council, aggregate sales and inventory information, and any other information that does not include individual identifying producer or handler information may be disclosed by the council.

65057. Investigation of chapter violations

The council may investigate all matters that affect the administration of this chapter and report violations to the secretary.

65058. False claims; disparagement; disclosure to investigative agency; private brands

(a) (1) A program or activity that is conducted or sponsored pursuant to this chapter shall not make false or unwarranted claims, or disparage the quality, value, use, or sale of any commodity authorized by law to be marketed in this state.

(2) Paragraph (1) shall not be construed to prohibit disclosure of any information to an investigative agency or a member of the public to protect the health or safety of the public.

(b) A program or activity shall not be conducted pursuant to this chapter with reference to a private brand or trade name that refers to beef or other products derived from the California cattle industry, except as provided for in subdivision (c).

(c) The council shall not expend funds for the advertising of brand name beef or other products derived from the California cattle industry unless the expenditures are approved by a two-thirds vote of the council with the concurrence of the secretary. The council may expend funds to conduct cost-sharing advertising with nonbeef brand name products.

Article 5. Implementation and Suspension of Operations

65060. Producer list; Livestock Identification list; handler reports; voter eligibility

(a) On or before June 1, 2019, the Bureau of Livestock Identification shall submit to the secretary for review a list of producers who have sold or owned cattle in the last calendar year.

(b) The secretary may require auction markets and packers to submit the names and mailing addresses of all producers from whom they acquired cattle in the most recently completed fiscal year. The request for information shall be in writing and shall be filed within 10 days following receipt of the request.

(c) The secretary shall determine which producers are eligible to vote consistent with the definition of producer in subdivision (k) of Section 65012.

(d) Any producer who believes himself or herself to be eligible to vote whose name does not appear on the appropriate list may have his or her name placed on the list by filing with the secretary a signed statement identifying the producer as a person eligible to vote. Failure to be on the list does not exempt the person from paying fees and does not invalidate any votes conducted pursuant to this chapter.

(e) Any producer eligible to vote may contact those on the list regarding the referendum in a form and manner prescribed by the secretary if all expenses associated with those contacts are paid in advance.

65061. Chapter operative for limited purpose; referendum; second referendum

This chapter, except as necessary to conduct an implementation referendum vote, shall not become operative until the secretary finds that a majority of producers participating in an initial referendum vote conducted by the secretary on or before June 1, 2020, or a second referendum vote conducted by the secretary pursuant to Section 65066, approve the referendum.

65062. Referendum notice; mandatory assessment; assessment refunds

An implementation referendum shall advertise the amount to be assessed and declare that the assessment shall be a mandatory fee. An implementation referendum shall also advertise that the council will accept petitions to refund the fee for any producer subject to this chapter pursuant to Section 65075.

65063. Referendum period; no more than 60 days

The secretary shall establish a period in which to conduct a referendum, that shall not be more than 60 days in duration, and may prescribe additional procedures necessary to conduct the referendum.

65064. Nonreceipt of producer ballot

Nonreceipt of a ballot by an eligible producer shall not invalidate a referendum.

65065. Secretary's findings; majority vote by producers

If the secretary finds that a majority vote has been given, the secretary shall certify and give notice of the majority vote to all producers whose names and addresses are on file with the secretary.

65066. Secretary's findings; majority vote not achieved

If the secretary finds that a majority vote has not been given for an initial referendum, the secretary shall certify and declare all provisions of this chapter inoperative, except as necessary to conduct a second implementation referendum vote pursuant to this section. The secretary shall conduct a second implementation referendum vote two years or later following certification of the first vote. If the second referendum vote conducted pursuant to this section does not receive a majority vote in favor, this chapter is repealed six months following the certification of the second vote unless a later statute is enacted altering this section.

65067. Referendum; proponent deposit; reimbursement; return of unused funds

(a) Before an implementation referendum vote conducted by the secretary pursuant to this article, a proponent of the establishment of the council shall deposit with the secretary the amount that the secretary deems necessary to defray the expenses of analyzing the proposed council and certifying the necessary list of producers submitted by the Bureau of Livestock Identification and conducting the vote.

(b) Any funds not used in conducting an implementation referendum established by this article shall be returned to the proponents of the council who deposited the funds with the secretary.

(c) Upon establishment of the council, the council may reimburse the proponents of the council for any funds deposited with the secretary that were used in carrying out this article, and for any legal expenses and costs incurred in establishing the council.

65068. Public hearing; notice; secretary's findings; continuation; winddown

(a) Five years after implementation of this chapter, the secretary shall hold a public hearing after providing proper notice to producers subject to this chapter and any other persons or entities who have requested, in writing, notice of the hearing to determine whether the operation of this chapter should be continued. If, after the hearing, the secretary finds that a substantial question exists among the producers assessed under this chapter as to whether the operation of this chapter should be continued, the secretary shall conduct a reapproval referendum to be conducted among producers to determine whether the operation of this chapter shall be reapproved and continue in effect.

(b) If the secretary finds, after conducting a hearing that no substantial question exists or if a reapproval referendum is required and a majority of eligible producers voting in the referendum voted in favor of continuing the operation of this chapter, the secretary shall certify the vote and this chapter shall remain operative. If the secretary finds that a majority vote has not been given, the secretary shall certify the vote and declare the operation of this chapter suspended and the operations of the council concluded and funds distributed in the manner provided in subdivision (c). A bond or security shall not be required for the referendum. The secretary shall provide public notice of the suspension of this chapter on the department's Internet Web site.

(c) On the expiration of this chapter pursuant to this article, the council shall remain in existence for the purpose of furnishing the secretary with a complete record of its outstanding financial obligations, accrued and to accrue. The secretary shall pay from the money deposited and disbursed any outstanding obligations and any obligations incurred by the secretary and the department under the terms and provisions of this section. Any money that remains shall be retained by the secretary to defray the expenses of formulation, issuance, administration, or enforcement of any subsequent program for beef promotion. If no such program is undertaken within a period of three years from the date of termination of this chapter, the money shall be used to fund activities related to the subject matter of this chapter at the discretion of the secretary.

(d) Following a hearing and favorable referendum, if required, the process specified in this section shall be conducted by the secretary every five years between July 1 and June 30 of the following year.

65069. Secretary's motion to terminate; producer vote; certification of vote

(a) On the secretary's own motion, at the request of the council, or at the request of a producer, the secretary may determine that it is no longer in the best interest of the state to continue the existence of the council and the programs established and maintained pursuant to this chapter.

(b) If the secretary makes the determination described in subdivision (a), the secretary shall call a vote of the producers to determine if the council should be terminated.

(c) (1) The secretary shall certify a vote conducted pursuant to subdivision (b).

(2) If a majority of producers vote in favor of terminating the council, the secretary shall declare the operation of this chapter suspended, the operations of the council concluded, and distribute the funds in the manner provided for in subdivision (c) of Section 65068. The secretary shall provide public notice of the suspension of this chapter on the department's Internet Web site.

(3) If a majority of producers do not vote in favor of terminating the council, the operation of this chapter shall continue in effect.

Article 6. Financial Provisions

65071. \$1 per head assessment; exceptions; limitations

(a) In order to carry out the programs and administer the activities that are conducted pursuant to this chapter, an assessment of one dollar (\$1) per head shall be paid on each sale of cattle and calves. The assessment shall be charged on all cattle and calves, except the following:

(1) Hides, skins, or the offal of animals.

(2) Any cattle or calves that are transported for purposes other than for sale or slaughter and without a change of ownership.

(3) Any cattle or calves custom slaughtered exclusively for the owner, members of the owner's household, or the owner's nonpaying guests or employees.

(4) Any cattle or calves weighing less than 200 pounds.

(5) Any cattle or calves originating outside the state transported solely to a stockyard or slaughter facility to be sold or slaughtered within 30 calendar days of arrival.

(6) Any cattle or calves sold within 10 days of being purchased where the seller can demonstrate the assessment has been paid within the past 10 days.

(b) The assessment charged pursuant to this chapter shall not be charged or collected more than once from each owner upon the same animal.

65072. Books and records; maintained for two years; access to secretary; confidentiality

(a) Each person who is required to pay or collect the assessment shall maintain a complete and accurate record of all transactions subject to assessments under this chapter. These records shall contain information required by the secretary relating to the payment or collection of assessments, shall be preserved for a period of two years, and shall be offered and submitted for inspection and audit at any reasonable time upon written demand by the secretary or the secretary's duly authorized agent.

(b) All information obtained by the secretary or the secretary's duly authorized agent from any inspection or audit of records shall be confidential and shall not be disclosed except when required in a judicial proceeding.

65073. Assessment liability; stockyards; auction markets; due date; Livestock I.D.

(a) The assessment for cattle or calves, whether originating in the state or out of state, shall be paid by the seller. The assessment shall be charged and collected from the seller or from the seller's account and paid to the council by each operator of a stockyard, livestock auction market, or slaughter facility. The assessment is due and payable to the council on or before the 15th day of the

month next succeeding the month in which the cattle and calves are sold. Assessments that are not collected in the manner provided in this subdivision shall be collected from the seller by the Bureau of Livestock Identification at the time that brand inspection fees are collected.

(b) The assessment for cattle or calves for which the assessment would not otherwise be collected pursuant to subdivision (a) and that are also exempt from a brand inspection shall be charged and collected from the seller and paid to the council in a manner determined by the department.

(c) Any assessment that is not collected in the manner specified in subdivision (a) or (b) shall be paid to the council directly by the seller on or before the 15th day of the month next succeeding the month in which the sale occurs.

65074. Assessments collected by Livestock I.D.; collection costs

The assessments that are collected by the Bureau of Livestock Identification pursuant to this article shall be forwarded to the secretary at the same time and in the same manner as the inspection fees that are provided for in Article 9 (commencing with Section 21281) of Chapter 6 of Division 10. The secretary shall reimburse, from any money that is collected pursuant to this section, the Bureau of Livestock Identification and any other bureaus or agencies of the state for any additional expenses that are incurred by them in the administration or enforcement of this chapter.

65075. Refund claims; process; prohibitions on conditions

Any person who is subject to the assessment that is required by Section 65071 may obtain a refund of the assessment collected by submitting to the council a claim for a refund. The claim shall be submitted to the council by mail, facsimile, electronic mail, or a refund request form through the council's Internet Web site within 90 days after the date of the brand inspection or the date of payment of the assessment, whichever date is later. The refund of an assessment shall be made by the council within 60 days of the date on which the refund request is received. The council or the department may not place conditions on the issuance of the refund except for requiring the claim for the refund to demonstrate the fee has been paid. The secretary, department, council, or producers, by referendum, shall not limit or inhibit a refund under this section for a person that has paid the assessment required by Section 65071.

65076. Confidentiality of producer names and addresses; refunds; aggregation of data

(a) Proprietary information obtained pursuant to this article by the council or the secretary, including the names and addresses of producers and the amounts of individual refunds or the identity of a person that received a refund pursuant to Section 65075, is confidential and shall not be disclosed except when required by a court order after a hearing in a judicial proceeding.

(b) Data that is aggregated from proprietary information, including the total amount refunded by the council annually, is not confidential, and may be disclosed to the public, if the data does not disclose proprietary information of an individual producer and the data does not identify an individual producer.

65077. Assessment is personal debt

An assessment that is levied pursuant to this chapter is a personal debt of the assessed person.

Article 7. Actions and Penalties

65081. Failure to pay, collect, or remit fees; liability for costs

Any person who fails to pay, collect, or remit any fees due within the time specified in this chapter shall be liable for administrative costs incurred by the department in enforcing this chapter.

65082. Civil liability not to exceed \$100 per head

The secretary may pursue an action to hold a person civilly liable in an amount not to exceed one hundred dollars (\$100) for each head of cattle or calves that is sold by any person who fails to pay, collect, or remit any fees due within the time specified in this chapter. The person also shall be liable for the total amount of fees due and the costs of a civil suit, including attorney's fees.

65083. Request to Attorney General; collection of unpaid fees

The secretary may request that the Attorney General file an action in an appropriate court to collect any unpaid fees, civil penalties, or other costs incurred by the department in pursuit of a violation.

65084. Attorney General; injunction against violation of chapter, regulation

The secretary may request that the Attorney General petition an appropriate court for the issuance of an injunction, restraining any person in violation of any requirement specified in this chapter, or regulation adopted pursuant to this chapter, from continuing the violation. The court also may require the performance of any obligation imposed under this chapter or any regulations adopted pursuant to this chapter.

65085. Statute of limitations; actions by Council; against Council

Any action by the secretary for any penalty or other remedy that is prescribed under this chapter shall be commenced within three years from the date of discovery of the alleged violation. Any action against the council by any person shall be commenced within three years from the date of the alleged violation.

65086. Grievance; informal hearing; time limitation; notice; content; findings; appeal

(a) Any person subject to this chapter may contest a determination of delinquent assessments, or other violation of this chapter, and request an informal hearing as outlined in this section.

(b) A request for an informal hearing shall be submitted in writing to the department.

(c) A request for an informal hearing shall be submitted within 30 days from the receipt of the department's adverse determination. The failure to present a timely request for an informal hearing constitutes a waiver of the respondent's right to contest the adverse determination. The department shall deny an untimely request for a hearing.

(d) Upon receipt of a timely request for an informal hearing, the department shall provide a notice of the hearing to the respondent that contains all of the following information:

(1) Date, location, and time of the hearing.

(2) The department's contact information, including, but not limited to, applicable telephone and facsimile numbers.

(3) Subject matter of the adverse determination.

(4) Any other information or documentation relative to the adverse determination.

(e) The department shall designate a hearing officer to preside over and conduct the informal hearing. A hearing officer may conduct a hearing by telephone, at the hearing officer's discretion.

(f) (1) The standard of proof to be applied by the hearing officer shall be a preponderance of the evidence, unless statutes or regulations applicable to the determination provide a higher standard.

(2) The hearing officer shall issue a written decision with a brief statement of the conclusion and findings to support the conclusion within 14 days after the conclusion of the hearing. The hearing officer may issue the decision orally at the conclusion of the hearing, subject to written confirmation.

(3) The written decision of the hearing officer shall be served on the respondent either by overnight mail or by facsimile transmission.

(g) The written decision of the hearing officer shall be effective immediately upon receipt and shall be final.

(h) The respondent may appeal the hearing officer's decision in accordance with Section 1094.5 of the Code of Civil Procedure.

65087. Termination of chapter; no waiver of rights, duties, obligations

The termination of this chapter shall not affect or waive any right, duty, obligation, or liability that has arisen or that may thereafter arise in connection with this chapter, release or extinguish any violation of this chapter, or affect or impair any right or remedies of the secretary with respect to any violation.