

TITLE 25
ANIMALS

CHAPTER 31
DAIRY PRODUCTS -- MARKETING

25-3101. PROTECTION OF DAIRY MARKETS -- PURPOSE. It is to the interest of all the people that the abundant natural resources of Idaho be protected, fully developed and uniformly distributed. Among the agricultural industries of the state of Idaho that contribute to the economic welfare of the state is the dairy industry. Because of problems incurred in marketing the dairy products produced in this state and because this marketing has become more and more difficult in the presently available markets, it is necessary, in order to provide a profitable enterprise for the dairy industry of the state and to promote employment labor and to assist the dairymen of the state and those in the various industries dependent upon the dairymen, that additional markets be found and developed. It is the purpose of this chapter to promote the public health and welfare of the citizens of our state by providing means for the protection, promotion, study, research, analysis and development of markets concerning the production and marketing of Idaho dairy products.

[25-3101, added 1969, ch. 140, sec. 1, p. 435; am. 2013, ch. 176, sec. 1, p. 408.]

25-3102. DAIRY PRODUCTS COMMISSION -- ESTABLISHMENT -- MEMBERS. There is hereby created and established in the department of self-governing agencies the "Idaho dairy products commission" to be composed of nine (9) producer members, three (3) from each of the three (3) commission districts referred to in section [25-3104](#), Idaho Code, who shall be elected by the producers of said districts as hereinafter set forth, and they shall hold office for a term of three (3) years.

[25-3102, added 1969, ch. 140, sec. 2, p. 435; am. 1974, ch. 13, sec. 9, p. 138; am. 2005, ch. 19, sec. 1, p. 56; am. 2015, ch. 244, sec. 6, p. 1010; am. 2016, ch. 38, sec. 1, p. 88.]

25-3103. DEFINITIONS. As used in this chapter, unless the context requires otherwise:

- (1) "Commission" means the Idaho dairy products commission;
- (2) To "ship" means to deliver or consign milk or cream to a person dealing in, processing, distributing, or manufacturing dairy products for sale, for human or animal consumption, industrial or medicinal uses;
- (3) "Dealer" means one who handles, ships, buys, processes, and sells dairy products, or who acts as sales or purchasing agent, broker, or factor of dairy products;
- (4) "Producer" means a person who produces milk from cows and sells it for human or animal food, or medicinal or industrial uses;
- (5) "Producer-handler" means any person who produces milk or milk fat and uses such production, or any part of it, for processing. For the purposes of this chapter, a producer-handler is a producer in any transaction which involves the delivery of unprocessed milk or milk fat produced by him or received from another producer and processed by such producer-handler;
- (6) "Department" means the Idaho state department of agriculture;

(7) "Person" means and includes individuals, corporations, partnerships, trusts, associations, cooperatives and any and all other business units, devices and arrangements.

[25-3103, added 1969, ch. 140, sec. 3, p. 435; am. 1974, ch. 13, sec. 10, p. 138; am. 2013, ch. 176, sec. 2, p. 408.]

25-3104. REPRESENTATIVE DISTRICTS. Three (3) elected commission members shall represent one (1) of the following districts:

(1) District I, which shall include the counties of Ada, Adams, Benewah, Boise, Bonner, Boundary, Canyon, Clearwater, Elmore, Gem, Idaho, Kootenai, Latah, Lewis, Nez Perce, Owyhee, Payette, Shoshone, Valley and Washington;

(2) District II, which shall include the counties of Blaine, Camas, Gooding, Jerome, Lincoln, Cassia, Minidoka and Twin Falls;

(3) District III, which shall include the counties of Bannock, Bear Lake, Bingham, Bonneville, Butte, Caribou, Clark, Custer, Franklin, Fremont, Jefferson, Lemhi, Madison, Oneida, Power and Teton.

[25-3104, added 1969, ch. 140, sec. 4, p. 435; am. 2005, ch. 19, sec. 2, p. 56.]

25-3105. PRODUCER MEMBERS -- QUALIFICATIONS -- REMOVAL. Each of the nine (9) producer members of the commission shall:

(1) Be a citizen over twenty-five (25) years of age and a resident of this state and the district which he represents; and

(2) Be and for the five (5) years last preceding his election have been actually engaged in producing dairy products within this state. These qualifications must continue during each member's term of office.

(3) Any commission member who discontinues to produce dairy products in this state, or changes his residence to another district during the term of office for which he has been selected, shall within thirty (30) days of such discontinuance or change of residence submit his resignation from the commission to the chairman of the commission. Removal procedures may be instituted against any commission member by petition signed by at least thirty percent (30%) of the producers within the commission member's district.

[25-3105, added 1969, ch. 140, sec. 5, p. 435.]

25-3106. PRODUCER MEMBERS -- TERM OF OFFICE -- APPOINTMENTS. The regular term of office of each producer member shall be three (3) years. The first commission members shall be appointed by the governor, and their terms shall terminate as follows:

(1) District I, IV & VII on July 1, 1970;

(2) District II, V & VIII on July 1, 1971;

(3) District III, VI & IX on July 1, 1972.

All other commission members shall be elected as provided in section [25-3107](#) and their respective terms shall end on July first of each third year thereafter.

Any vacancies that occur on the commission shall be filled by appointment by the other members of the commission, and such appointee shall hold office for the remainder of the term for which he is appointed.

[25-3106, added 1969, ch. 140, sec. 6, p. 435.]

25-3107. PRODUCER MEMBERS -- NOMINATIONS -- ELECTIONS. Producer members of the commission shall be nominated and elected by producers within the district that such producer members represent in the year in which a commission member's term shall expire. Such producer members receiving the largest number of the votes cast in the respective districts which they represent shall be elected. The election shall be by secret mail ballot and under the supervision of the department.

Nomination for candidates to be elected to the commission shall be conducted by a nominating committee consisting of at least one (1) Idaho dairy products commission board member from each district. A commissioner who is up for reelection shall not serve on the committee. Thirty (30) days prior to the date of election, the nominating committee will present at least one (1) and not more than three (3) qualified names per district to be placed on the ballot. In addition thereto, producer members of the commission may be nominated by a petition of nomination signed by not less than ten (10) active producers, each of whom shall reside in the district wherein the nominee resides, and the names of all such nominees nominated by petition shall be presented to the department not later than May 1 of the year in which the election for such district is to be held.

Ballots for electing members to the commission will be mailed by the commission to all eligible producers no later than May 15 in districts where elections are to be held and such ballots to be valid shall be returned postmarked no later than May 31 of the year mailed to the department.

All costs and expenses of the department shall be paid by the commission. All materials and other necessary supplies shall be provided to the department at its request.

[25-3107, added 1969, ch. 140, sec. 7, p. 435; am. 2013, ch. 176, sec. 3, p. 408; am. 2016, ch. 38, sec. 2, p. 88.]

25-3108. SALARY. Notwithstanding the provisions of section [59-509](#), Idaho Code, members of the commission shall fix the compensation they shall each receive for their services, not to exceed the sum of one hundred fifty dollars (\$150) per day, and shall fix the reimbursement they shall each receive for their travel and their necessary expenses for each day they shall be away from their place of residence and engaged in the business of their office, subject to the limits provided in section [67-2008](#), Idaho Code.

[25-3108, added 1969, ch. 140, sec. 8, p. 435; am. 1973, ch. 20, sec. 1, p. 41; am. 1980, ch. 247, sec. 24, p. 600; am. 1990, ch. 142, sec. 1, p. 321; am. 2014, ch. 110, sec. 1, p. 320.]

25-3109. COMMISSION CHAIRMAN -- DIRECTOR. The commission shall elect a chairman and may employ a director who is not a member of the commission.

[25-3109, added 1969, ch. 140, sec. 9, p. 435; am. 2013, ch. 176, sec. 4, p. 409.]

25-3110. MEETINGS. The commission shall meet at least once every three (3) months regularly and at such other times as called by the chairman. The chairman may call special meetings of the commission at any time or place.

[25-3110, added 1969, ch. 140, sec. 10, p. 435.]

25-3111. POLICIES -- DUTIES, AUTHORITIES, AND POWERS. (1) Consistent with the general purposes of this chapter, the commission shall establish the policies to be followed in the accomplishments of such purposes.

(2) In the administration of this chapter, the commission shall have the following duties, authorities and powers:

- (a) To conduct a campaign of research, education and publicity.
- (b) To find new markets for dairy products and their by-products.
- (c) To give, publicize and promulgate reliable information showing the value of milk, cream, and dairy products for any purpose for which they are found useful and profitable.
- (d) To make public and encourage the widespread national and international use of dairy products and by-products produced in Idaho.
- (e) To investigate and participate in studies of the problems peculiar to the dairy producers in Idaho.
- (f) To take such action as the commission deems necessary or advisable in order to stabilize and protect the dairy industry of the state and the health and welfare of the public.
- (g) To sue and be sued.
- (h) To enter into such contracts as may be necessary or advisable.
- (i) To employ, and at its pleasure discharge, officers, agents, attorneys and such other personnel as it deems necessary, including experts in agriculture and dairying and the publicizing of the products thereof, and to prescribe their duties and to fix their compensation.
- (j) To make use of such advertising means and methods as the commission deems advisable and to enter into contracts and agreements for research and advertising within and without the state.
- (k) To cooperate with any local, state or national organization or agency, whether voluntary or created by the law of any state or by national law, engaged in work or activities similar to the work and activities of the commission, and to enter into contracts and agreements with such organizations or agencies for carrying on a joint campaign of research, education and publicity in reciprocal enforcement.
- (l) To lease, purchase or own real or personal property deemed necessary in the administration of this chapter.
- (m) To investigate and prosecute in the name of the state of Idaho violations of the provisions of this chapter or any suit or action for collection of the tax or assessment provided for in this chapter, or to protect brands, marks, brand names, trademarks or other intellectual property rights being promoted or used by the commission.
- (n) To adopt, rescind, modify and amend all necessary and proper orders, resolutions and regulations for the procedure and exercise of its powers and the performance of its duties.
- (o) To incur indebtedness and carry on all business activities.
- (p) To keep books and records and accounts of all its doings, which books, records and accounts shall be open to inspection by the state controller and public at all times.

[25-3111, added 1969, ch. 140, sec. 11, p. 435; am. 1994, ch. 180, sec. 41, p. 453; am. 2013, ch. 176, sec. 5, p. 409.]

25-3112. DEPOSIT AND DISBURSEMENT OF FUNDS. (1) Immediately upon receipt, all moneys received by the commission shall be deposited in one or more separate accounts in the name of the commission in one or more banks or trust companies approved under [chapter 27, title 67](#), Idaho Code, as state de-

positories. The commission shall designate such banks or trust companies. All funds so deposited are hereby continuously appropriated for the purpose of carrying out the provisions of this chapter.

(2) Funds can be withdrawn or paid out of such accounts only upon checks or other orders upon such accounts signed by two (2) officers designated by the commission.

(3) The right is reserved to the state of Idaho to audit the funds of the commission at any time.

(4) Each year, during the legislative session, the commission shall file with the senate agricultural affairs committee, the house agricultural affairs committee, the legislative services office, the state controller, and the division of financial management, a report showing the annual income and expenses by standard classification of the commission during the preceding fiscal year. The report shall also include an estimate of income to the commission for the current and next fiscal year and a projection of anticipated expenses by category for the current and next fiscal year. From and after January 15, 1989, the report shall also include a reconciliation between the estimated income and expenses projected and the actual income and expenses of the preceding fiscal year.

(5) All moneys received or expended by the commission shall be audited annually by a certified public accountant designated by the commission, who shall furnish a copy of such audit to the director of legislative services and to the senate agricultural affairs committee and the house agricultural affairs committee. The audit shall be completed within ninety (90) days following the close of the fiscal year.

(6) The expenditures of the commission are expressly exempted from the provisions of sections [67-2007](#) and [67-2008](#), Idaho Code.

[25-3112, added 1988, ch. 193, sec. 2, p. 349; am. 1993, ch. 327, sec. 13, p. 1203; am. 1994, ch. 180, sec. 42, p. 454; am. 1996, ch. 159, sec. 13, p. 516; am. 2003, ch. 32, sec. 16, p. 127; am. 2014, ch. 110, sec. 2, p. 320.]

25-3113. BONDS OF AGENTS AND EMPLOYEES. The director, or any agent or employee appointed by the commission, shall be bonded to the state of Idaho in the time, form and manner as prescribed by the provisions of [chapter 8, title 59](#), Idaho Code. The cost of the bond is an administrative expense under this chapter.

[25-3113, added 1969, ch. 140, sec. 13, p. 435; am. 2013, ch. 176, sec. 6, p. 410.]

25-3114. APPOINTMENT OF DIRECTOR -- DUTIES -- SALARY. The commission shall appoint a director who shall devote full time to the administration of this chapter. He shall proceed immediately to prepare the plans and general program necessary and adequate to carry out the policies that are adopted by the commission. The director shall be paid a reasonable salary fixed by the commission, commensurate with his duties, and all necessary expenses.

[25-3114, added 1969, ch. 140, sec. 14, p. 435; am. 2013, ch. 176, sec. 7, p. 410.]

25-3115. OFFICE FOR DIRECTOR. For the convenience of the majority of those most likely to be affected in the administration of this chapter, the

director, upon recommendation of the commission, shall establish and maintain an office for the director within the state of Idaho.

[25-3115, added 1969, ch. 140, sec. 15, p. 435; am. 2013, ch. 176, sec. 8, p. 410.]

25-3116. LIMIT ON STATE LIABILITY. All contractual expenses incurred by the commission in performing its duties and exercising its powers shall be without liability on the part of the state. All tort obligations arising out of acts and omissions of the commission are binding on the state of Idaho as, and to the extent, provided for in [chapter 9, title 6](#), Idaho Code.

[25-3116, added 1969, ch. 140, sec. 16, p. 435; am. 2013, ch. 176, sec. 9, p. 410.]

25-3117. TAX LEVY. (1) From and after the 1st day of July, 1988, there is hereby levied and imposed a tax of not to exceed one percent (1%) of the gross dollar daily or monthly settlements for the sale of all milk and cream produced in the state of Idaho and sold or contracted through commercial channels, which tax shall be due on or before the time when such milk or cream is first sold or contracted in the commercial channels and shall be paid at such time or times as the commission may, by rule or regulation, prescribe, as hereinafter provided, but not later than the 25th day of the month next succeeding the month in which milk or cream is sold or contracted in commercial channels. The tax provided in this section shall be levied and imposed at a rate of not more than one percent (1%) as the commission, by a vote of two-thirds (2/3) of its members, establishes.

(2) The tax shall be levied and assessed to the producer at the time of delivery for sale if sold by a producer, and shall be collected by the first purchaser and/or producer-handler and deducted from the amount due the producer, and all money so collected shall be made payable to the Idaho dairy products commission on or before the 25th day of the succeeding month. All such payments shall be sent directly to the commission for deposit. If a purchaser and/or producer-handler fails to remit any money so collected or fails to make deductions for assessments, a penalty of ten percent (10%) shall be added to the amount of any assessments which are unpaid when due under the terms of this chapter.

(3) The tax constitutes a lien prior to all other liens and encumbrances upon such milk or cream except liens which are declared prior by operation of a statute of this state.

[25-3117, added 1969, ch. 140, sec. 17, p. 435; am. 1979, ch. 184, sec. 1, p. 538; am. 1984, ch. 20, sec. 1, p. 23; am. 1988, ch. 185, sec. 1, p. 324; am. 1988, ch. 193, sec. 3, p. 349.]

25-3118. PURCHASER'S STATEMENTS. (1) The purchaser or the producer-handler at the time of settlement, shall make and deliver separate statements for each purchaser to the producer and said statements shall be delivered to the producer at the time of each monthly or bimonthly payment date.

(2) The statements shall be on forms and in such numbers as prescribed and approved by the commission and shall show at least:

- (a) The name or names and address or addresses of the producer.
- (b) The name and address of the purchaser, or the producer-handler.

(c) The dollar value of the milk and/or cream sold.

(d) The date of the purchase.

(3) Unlawful or wilful alterations of a statement shall constitute a misdemeanor.

[25-3118, added 1969, ch. 140, sec. 18, p. 435.]

25-3119. PERSONS REQUIRED TO PAY TAX. The tax imposed in this chapter shall be paid by the first purchaser or producer-handler to the commission. The commission shall receipt the purchaser or producer-handler therefor and promptly deposit the moneys in a bank account in the name of the Idaho dairy products commission. The commission may adopt, rescind, modify and amend regulations not consistent with this chapter, related to the payment and collection of the tax provided for in the chapter.

[25-3119, added 1969, ch. 140, sec. 19, p. 435; am. 1988, ch. 193, sec. 4, p. 350.]

25-3120. INSPECTION OF PREMISES AND RECORDS. The commission through its agents may inspect the premises and records of any dealer and/or producer-handler for the purpose of enforcing this act.

[25-3120, added 1969, ch. 140, sec. 20, p. 435.]

25-3121. VIOLATION OF THIS CHAPTER -- MISDEMEANOR -- FINES. Any person who shall violate or aid in the violation of any of the provisions of this chapter shall be guilty of a misdemeanor and upon conviction thereof be punished by a fine of not more than three hundred dollars (\$300) or imprisonment not to exceed ninety (90) days, or both. Fines collected for violation of this chapter shall be paid into the Idaho dairy products commission fund.

[25-3121, added 1969, ch. 140, sec. 21, p. 435; am. 2013, ch. 176, sec. 10, p. 411.]

25-3122. REFERENDUM REGARDING CONTINUANCE OF COMMISSION. After five (5) years from the date the commission was created, a referendum may be held at the petition of the producers or at the request of the commission. The question shall be submitted by secret ballots upon which the words "For continuance of the Idaho Dairy Products Commission" and "Against continuance of the Idaho Dairy Products Commission" are printed, with a square before each proposition and a direction to insert an "X" mark in the square before the proposition which the voter favors. In the event a referendum is held as provided in this section, no further referendum on the question of discontinuance of such commission shall be held within five (5) years from the date the result of the previous referendum was declared.

The referendum must be held and supervised by the department upon its receiving either of the following:

(1) A petition signed by twenty percent (20%) of the producers or two thousand (2,000) producers, whichever is less.

(2) At written request from the commission.

(3) The commission shall pay the costs of any such referendum.

The referendum shall be held, notice thereof given, expenses thereof paid and the result determined, declared and recorded in the office of the secretary of state. No hearings or district meetings shall be made prior

to the referendum upon the question of determining whether such referendum should be held.

Notice of such referendum must be given by the commission in a manner determined by them. The ballots must also be prepared by the commission and forwarded to the producer members who shall return them within twenty (20) days after mailing by the commission.

[25-3122, added 1969, ch. 140, sec. 23, p. 435; am. 2013, ch. 176, sec. 11, p. 411.]

25-3123. DISCONTINUATION. If the vote at the referendum provided in section [25-3122](#), is in favor of discontinuation, the commission shall as rapidly as possible terminate its activities, convert all its assets to cash and do all other things necessary to terminate its activities. At the termination of such activities, any funds remaining in possession of the commission shall be paid to the Idaho dairymen's association.

[25-3123, added 1969, ch. 140, sec. 24, p. 435.]