

Sec. 11. This act is effective on July 1, 1969.

Approved June 6, 1969.

CHAPTER 1021—H. F. No. 1456

[Coded]

An act relating to the promotion, advertising, market research and development of agricultural commodities; providing for the creation of commodity advisory boards, and defining the powers and duties thereof; establishing fees to finance the organization; and providing penalties for violations.

Be it enacted by the Legislature of the State of Minnesota:

Section 1. [17.51] **Agricultural commodities promotion act; citation.** This act may be cited as the agricultural commodities promotion act.

Sec. 2. [17.52] **Purpose.** It is hereby declared to be in the interest of the public welfare that Minnesota farmers who produce agricultural commodities for domestic and foreign markets shall be permitted to act separately, or jointly in cooperation with handlers, dealers and processors of such products, with the Minnesota department of agriculture, the university of Minnesota, and any other interested agencies, to promote and stimulate the use, sale and consumption of such commodities and to improve methods of production, processing and marketing thereof; it is further declared that provision for the establishment of Minnesota agricultural commodity advisory boards is deemed an appropriate means to accomplish such objectives. This act shall not be construed to abrogate or limit in any way the rights, powers, duties and functions of the commissioner of agriculture or any other agency of the state, but shall be supplementary thereto, and in aid and cooperation therewith.

Sec. 3. [17.53] **Definitions.** Subdivision 1. As used in this act, the terms defined in this section shall have the following meanings:

Subd. 2. "Agricultural commodity" means any agricultural product, including without limitation animals and animal products, grown, raised, produced or fed within the state of Minnesota for use as food, feed, seed or any industrial or chemurgic purpose.

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Subd. 3. "Commercial channels" means the processes of sale of any agricultural commodity to any commercial buyer, dealer, processor, cooperative or to any person, public or private, who resells such commodity or any product produced from such commodity for slaughter, storage, processing or distribution.

Subd. 4. "Person" means any individual, corporation, association, cooperative or partnership.

Subd. 5. "Board" or "advisory board" means the advisory board created under the provisions of this act in connection with the organization of the producers of a particular commodity as herein provided.

Subd. 6. "First purchaser" means any person that buys agricultural commodities for movement into commercial channels from the producer; or any lienholder, secured party or pledgee, public or private, or assignee of said lienholder, secured party or pledgee, who gains title to the agricultural commodity from the producer as the result of exercising any legal rights by the lienholder, secured party, pledgee, or assignee thereof, regardless of when the lien, security interest or pledge was created.

Subd. 7. "Commissioner" means the commissioner of agriculture of the state of Minnesota.

Subd. 8. "Producer" means any person who owns or operates an agricultural producing or growing facility for the agricultural commodity under consideration for referendum and shares in the profits and risk of loss from such facility, and who grows, raises, feeds or produces said agricultural commodity in Minnesota during the current or preceding marketing year.

Subd. 9. "Qualified voter" means any producer defined above who would be subject to the payment of fees to finance the activities described in this act.

Subd. 10. "Promotional order" means an order issued by the commissioner with the advice and consent of the board pursuant to this chapter which establishes a program for promotion, advertising, production, market research, and market development of the growing, processing, distributing, sale of or handling of agricultural products covered by referendum and provides for the collection of fees and financing the same.

Subd. 11. "Sale" means any passing of title from the producer to the first purchaser. Sale includes any pledge, security interest or lien after harvest.

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Subd. 12. "Participating producer" means any producer of an agricultural commodity for which a promotional order has been issued and exists, who produces that commodity in the organized area and meets the minimal requirements established by the advisory board to qualify as a producer.

Sec. 4. [17.54] **Advisory boards; membership; election; term.** Subdivision 1. **Creation.** An advisory board is hereby created for the producers of each agricultural commodity who file with the commissioner a petition requesting that the producers of such commodity be subjected to the provisions of this act, which petition is signed by 1,500 or 15 percent, whichever is less, of the producers of such commodity. Such petition shall be certified by at least two producers to have been signed only by producers of the commodity involved.

Subd. 2. **Membership.** Upon petition of the required number of producers the commissioner shall, after consultation with the various producer or commodity organizations of the particular commodity petitioning for a referendum, determine the size of the board and distribution of the board membership. The advisory board may designate industry and university of Minnesota personnel, either by name or by office, to serve as consultants to the board.

Subd. 3. **Election.** Within 30 days after the filing of the petition by the required number of the producers of an agricultural commodity the commissioner shall appoint a nominating committee of five producers of that commodity who shall, within 60 days from the filing of such petition nominate at least two producer candidates for each advisory board position and certify the names of such nominees to the commissioner. Nominees shall be selected with a view to establishing a fair representation of all producers of the particular commodity throughout the area to be organized which shall comprise the entire state unless the commissioner determines that at least 95 percent of the production of the subject commodity is in a lesser area in which event he shall define such area following county lines. Upon receipt of the nominations the commissioner shall promptly arrange an election to be held at places designated by him reasonably convenient to all producers in the organized area and give at least seven days' notice of such election in legal newspapers having a general circulation in the organized area. Ballots setting forth the names of nominated candidates and providing for write in candidates shall be made available at all polling places. Only producers of the agricultural commodity involved shall be qualified to vote, and polling procedures shall be established to avoid voting by others than qualified producers. An impartial committee appointed by the commis-

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sioner shall tabulate the votes and the candidates receiving the most votes shall be declared elected to the first advisory board. In each calendar year following the one in which the first board is elected candidates shall be selected and an election shall be held to elect a successor or successors to the board member or members whose term or terms expire in that year. Nominations shall be made and the elections shall be held in the same manner as prescribed for the first board except that the choice of nominating committee members, the time of nominations and the time and place of elections shall be fixed by the commissioner with the consent of the board.

Subd. 4. Terms. At the first meeting of the first advisory board the commissioner shall determine by lot one-third of the board members whose terms shall expire June 30 in the calendar year following the year of the first election, one-third of the board members whose terms shall expire June 30 in the second calendar year and the remaining board members whose terms shall expire June 30 in the third calendar year. In the event the commissioner has designated specific areas for representation on the board, the terms of board members in any one area shall not expire in the same year. All elected successor board members shall be elected for three year terms and each shall serve until his successor is elected and qualified. In the event a board member ceases to have any of the qualifications herein established his office shall be deemed vacant. Any interim vacancy on the board shall be filled by the board for the remainder of the term vacated.

Subd. 5. Organization. The commissioner shall serve as chairman of the board without vote. The board shall elect a vice chairman, who shall act in the absence of the commissioner, a secretary, and such other officers as the board may deem appropriate. The terms of such officers shall expire on June 30 of each year and their successors shall be elected at the first meeting following that date.

Sec. 5. [17.55] Meetings; quorum. Subject to the requirements of this act, the advisory board shall meet at such times and place as it may determine or upon call of the chairman or of any three members of the board. A majority of the voting members of the advisory board shall constitute a quorum for the transaction of all business in carrying out the duties of the board.

Sec. 6. [17.56] Advisory board to formulate and submit promotional order. **Subdivision 1. Formulation.** Within 15 days after its election the first advisory board for producers of a particular commodity shall meet and formulate a promotional order establishing a program for development, promotion, advertising, research, distribution and the expansion of the sale, use and consump-

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tion of the commodity it represents and establishing fees to be paid by producers to finance the proposed activities.

Subd. 2. Hearings. The commissioner, with the advice and consent of the advisory board, shall hold a public hearing or public hearings on the proposed promotional order in an area or areas and at a time or times affording reasonable opportunities to producers to attend. The advisory board together with the commissioner shall determine after such hearings whether or not the promotional order shall be amended, modified or supplemented. If changes or additions of substance are made, the advisory board and the commissioner shall hold like public hearings on the amended or supplemented promotional order.

Subd. 3. Referendum. Following the hearing, or hearings, the advisory board and commissioner shall conduct a referendum on the proposed final promotional order. At least ten days' notice of the time and places of such referendum shall be published in a legal newspaper of general circulation in each county affected. In addition, direct written notice thereof shall likewise be given to each county extension office in any county involved in the referendum. Such notice shall include details of the promotional order to afford all producers of the subject commodity access to complete information about the promotional order. The promotional order shall become effective if approved by 55 percent or more of those voting in the referendum, and such order shall be applicable only to those producers of the subject commodity within the area of the state organized pursuant to this act. Upon completion of the referendum the commissioner shall make findings and issue an appropriate order based on said findings.

Sec. 7. [17.57] Additional powers and duties of advisory board. Subdivision 1. **Adoption of regulations and budget.** The advisory board shall (a) adopt and administer rules and regulations for the administration of the promotional order, including among other things, minimal requirements to qualify as a producer; (b) recommend amendments to the order, such amendments to be adopted only after a producer referendum in which a majority of the producers favor such adoption; (c) prepare an annual estimated budget for the operation of the promotional order; and (d) prepare an annual report on the programs of the order, said report to be made available to the producers concerned.

Subd. 2. Collection of assessments and data. The advisory board shall provide a procedure for the collection of the producer assessments to finance the promotional order and for the collection of such necessary information and data as is necessary for the proper administration of the order.

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Subd. 3. **Refunds of fees.** The advisory board shall provide for the refund of any fees paid by the producer who objects to payment of fees.

Subd. 4. **Donations.** The advisory board is authorized to accept donations of funds, property, services or other assistance from public or private sources for the purpose of furthering the objectives of this act.

Subd. 5. **Right to sue and be sued.** The advisory board shall have the right to *investigate and prosecute in the name of the state of Minnesota* any action or suit to enforce the collection or insure payment of the fees authorized by the provisions of this act and to sue and be sued in the name of the advisory board; to do all other things necessary to the administration and implementation of this act.

Subd. 6. **Collection and expenditure of funds; audit.** The advisory board shall be responsible for the collection and expenditure of all funds provided for under this act and shall provide for an annual audit of funds to be made by a certified auditing firm. An annual financial statement shall be available to any producer upon request.

Sec. 8. [17.58] **Powers and duties of commissioner.** Subdivision 1. **Contracts.** The commissioner, with the advice and consent of the advisory board, may contract and cooperate with any person, firm, corporation or association, or with any local, state, federal or international agency or institution, for market development, education, publicity, promotion, research, transportation and advertising within the purposes of this act.

Subd. 2. **Personnel.** The commissioner, with the advice and consent of the advisory board, may appoint, employ, provide necessary bond, discharge, fix compensation for and prescribe the duties of such administrative, clerical, technical and other personnel and agencies as may be deemed necessary.

Subd. 3. **General powers.** In administering this act, the commissioner shall have such other powers as may be conferred upon him by law not inconsistent with the provisions of this act.

Subd. 4. **Regulations.** In the organization and operation of a promotional order for any commodity coming under this act, the commissioner shall follow the rules and regulations as developed by the advisory board pursuant to the provisions of this act.

Sec. 9. [17.59] **Fees to defray expense.** Subdivision 1. **Assessment.** For the purpose of providing funds to defray the necessary expenses incurred by the commissioner and the advi-

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sory board in formulating, submitting to referendum, issuing, administering and enforcing a promotional order, the promotional order shall provide for assessing and collecting fees in amounts sufficient to defray such expenses, and shall indicate the maximum assessment rate which shall not exceed one percent of the market value of the year's production of participating producers. Any increase in the maximum assessment provided for in the promotional order must be within the limit herein prescribed and must be approved by the majority of voting participating producers in a referendum held for that purpose after reasonable notice of such proposed increase.

Subd. 2. Payment. The advisory board together with the commissioner shall establish the procedure for the payment of the assessment by the producer, and such procedure shall be clearly outlined in the proposed promotional order. Such procedure must be fair, reasonable and whenever possible shall be deducted by the first purchaser at the time of sale. The first purchaser shall submit to the advisory board through the commissioner's office any fees so deducted once every 30 days. When proof of payment of the fee assessed can be furnished, it shall not be necessary for any subsequent buyer to deduct the fee at time of purchase.

Subd. 3. Financing referendums. The commissioner shall require producers petitioning for a promotional order to deposit with him in advance such amount as he deems necessary to defray the expense of electing the first board, formulating an order, submitting it to referendum and issuing the order. If the order is issued, such producers shall be reimbursed when funds are available from assessments. If the order is not issued the commissioner shall refund only that portion of the deposit remaining after payment of expenses incurred on a pro rata basis.

Subd. 4. Deposit and use of fees. Fees collected pursuant to this act shall be deposited in a bank or banks or other depository approved by the commissioner of banks and shall be disbursed by such officers and employees as may be approved by the advisory board for the necessary expenses incurred in the administration of this act. Fees collected shall be used exclusively for the purpose collected and not for legislative or political activities.

Sec. 10. [17.60] Compensation and expenses. Each member of the advisory board, except the commissioner, shall be entitled to a reasonable per diem to be fixed in the promotional order and actual expenses incurred while attending board meetings, but only actual expenses incurred while engaged in other official business of the advisory board.

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Sec. 11. [17.61] **Legal counsel.** The advisory board may appoint an attorney who shall act for the board and the commissioner when required. The board shall fix the compensation and terms of employment of such attorney. The provisions of Minnesota Statutes, Chapter 8, shall not apply to this attorney.

Sec. 12. [17.62] **Records of the advisory board.** All of the records of the advisory board shall be public records and shall be available for inspection for any lawful purpose, provided, however, that the advisory board shall be empowered to make reasonable rules and regulations concerning the time or place of such inspection, or the manner in which the information shall be made available.

Sec. 13. [17.63] **Refund of fees.** Any producer may, by the use of forms to be provided by the commissioner and upon presentation of such proof as the commissioner and advisory board may require by rule or regulation, have the fee paid pursuant to this act refunded to him. Such request for refund must be received in the office of the commissioner or the advisory board within 60 days following the payment of such fee, but in no event shall these requests for refund be accepted more often than 12 times per year and must be made at least once each year. Refund shall be made by the commissioner or advisory board within 30 days of the request for refund provided that the fee sought to be refunded has been received. Rules and regulations governing the refund of fees for the commodity involved shall be formulated by the advisory board together with the commissioner and shall be fully outlined at the hearing, or hearings, and be available for the information of all producers concerned with the referendum.

Sec. 14. [17.64] **Termination of the order.** Subdivision 1. **By board.** The advisory board shall suspend or terminate a promotional order whenever it finds, after a public hearing or hearings, that an order is contrary to or does not tend to effectuate the purposes or provisions of this act, provided that such suspension or termination shall not become effective until the expiration of the current marketing year. The current marketing year for any commodity under this act shall be determined by the advisory board together with the commissioner.

Subd. 2. **By referendum.** Upon petition of the same number of producers as required to initiate the promotional order, the commissioner with the advice and consent of the advisory board shall within 60 days conduct a referendum to determine whether or not the promotional order shall be continued. He shall terminate the order at the end of the current marketing year if a majority of the producers voting in the referendum vote in favor of termination. Such petition of

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producers shall include a certification statement that the signatures are those of qualified producers of the commodity involved.

Sec. 15. [17.65] **Expenditure of funds upon termination of order.** Any funds remaining with the advisory board after the termination of an order shall be expended to meet existing legal obligations of the advisory board. Any surplus remaining shall be expended for market research purposes, or other lawful purposes under the act, at the discretion of the advisory board.

Sec. 16. [17.66] **Association of producers not illegal.** No activity, including meetings, undertaken in pursuance of the provisions of this act and intended to benefit the producers, handlers and processors of such agricultural commodity shall be deemed or considered illegal or in restraint of trade.

Sec. 17. [17.67] **Penalty for violations.** Any person who violates any provision of this act or rule or regulation of the advisory board promulgated pursuant to this act is guilty of a misdemeanor.

Sec. 18. [17.68] **Exemptions.** This act shall not apply to producers of agricultural commodities subject to promotional orders established under any act effective on or before July 1, 1969 and specifically applicable to a particular commodity.

Sec. 19. [17.69] **Nonliability of state.** No liability shall be imposed upon the state of Minnesota for any acts or omissions of the commissioner or any advisory board established pursuant to this act.

Sec. 20. **Effective date.** This act shall become effective on July 1, 1969.

Approved June 6, 1969.

CHAPTER 1022—H. F. No. 1493

[Coded]

An act relating to blind assistance; appeals from determinations of agencies relating to rehabilitation; amending Minnesota Statutes 1967, Section 248.07, by adding a subdivision.

Be it enacted by the Legislature of the State of Minnesota:

Changes or additions indicated by italics, deletions by ~~strikeout~~.