

## AGRICULTURE

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## DEPARTMENT ADMINISTRATION

**17.045 Food processors; investigation of complaints**

The commissioner of the department of agriculture, with the cooperation and assistance of the attorney general, may investigate any complaint which suggests that an establishment licensed by the state and engaging in the production, processing or handling of meat, fish, poultry, dairy or other food products has been subjected to food handling requirements which are inconsistent with the published laws, regulations or standards of a federal, state or local agency. The findings of any such investigation shall be promptly reported to the complainant, to any trade association with whom the complainant is associated or which has requested a copy of the report of findings, and to any agency or official against which the complaint is directed or which has jurisdiction over the matter complained of. Provided, however, that the provisions of this section shall not apply to an official establishment which is operating under inspection programs pursuant to the Federal Meat Inspection Act or the Federal Poultry Products Inspection Act.

[1973 c 745 s 1]

## COMMODITIES PROMOTION ACT

**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 sections 17.51 to 17.69, which petition is signed by 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.

[1973 c 237 s 1]

[For text of subds. 2 to 4, see M.S.1971]

**Subd. 5. Organization.** The commissioner shall serve as chairman of the board without vote. The board shall from its own membership 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

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officers shall expire on June 30 of each year and their successors shall be elected at the first meeting following that date.

[1973 c 242 s 1]

**17.56 Advisory board to formulate and submit promotional order**

[For text of subds. 1 to 2, see M.S.1971]

**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 a majority 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 sections 17.51 to 17.69. Upon completion of the referendum the commissioner shall make findings and issue an appropriate order based on said findings.

[1973 c 242 s 2]

**17.601 Per diem expense**

The per diem expenses allowed to members of the beef industry advisory board pursuant to section 17.60, shall not exceed \$35 per day.

[1973 c 575 s 1 subd. 4]

**AGRICULTURAL MARKETING AND BARGAINING**

**17.691 Citation**

Sections 17.691 to 17.701 shall be known and may be cited as the "agricultural marketing and bargaining act of 1973."

[1973 c 736 s 1]

**17.692 Declaration of policy**

Since agricultural products are produced by numerous and often scattered individual producers, the marketing and bargaining position of individual producers will be adversely affected unless they are free to join together voluntarily in cooperative associations or other associations as authorized by law. Membership of a producer in such a cooperative association or other association can only be meaningful if a handler of agricultural products is required to bargain in good faith with an agricultural cooperative association or other association as the representative of the members of such association. Production and marketing of agricultural commodities constitutes a basic and essential industry. Agricultural producers do not now enjoy the opportunity, comparable to that of industrial workers and those in many other forms of enterprise or employment, to organize and bargain effectively. Neither is adequate government provision available to assure that the bargaining process shall be fair both to producers and handlers and in the public interest.

[1973 c 736 s 2]

**17.693 Definitions**

**Subdivision 1.** For the purposes of sections 17.691 to 17.701, the terms defined in this section have the meanings given them.

**Subd. 2.** "Association" means an association of producers, or federation of cooperative association of producers engaged in producing, marketing, bargaining, shipping or processing functions of an agricultural commodity on be-

half of its members who are producers of such agricultural commodity, which has been accredited by the commissioner.

Subd. 3. "Person" means an individual, partnership, corporation or association.

Subd. 4. "Producer" means any person, who in any one calendar year within the previous two calendar years, produces or causes to be produced any agricultural commodity in quantity beyond his own family use, and who is able to transfer, during the calendar year, to a handler or an association a merchantable title to the agricultural commodity or provide management, labor, machinery, facilities, or any other production input, with the assumption of risk, for the production of the agricultural commodity under a written contract.

Subd. 5. "Agricultural commodity" includes all agricultural goods produced under contract for marketing as defined by the commissioner of agriculture. It does not include any commodity sold by a producer to another producer for his own exclusive use and not for resale. The kinds, types and subtypes of products to be classed together as an agricultural commodity for the purposes of this act sections 17.691 to 17.701 shall be determined by the commissioner on the basis of common usage and practice.

Subd. 6. "Handler" means a person, other than an association, engaged in the business or practice of acquiring agricultural commodities from producers or associations for processing or sale; grading, packaging, handling, storing or processing agricultural commodities received from producers or associations; contracting or negotiating contracts or other arrangements with producers or associations with respect to the production of any agricultural commodity; or acting as an agent or broker for a handler in the performance of any function or act specified above. It does not include a producer who sells at a retail establishment which he owns and operates or who sells at a produce market, agricultural commodities produced by him and agricultural commodities produced by another producer subject to value limitation established by the commissioner.

Subd. 7. "Commissioner" means the commissioner of agriculture of the state of Minnesota or his designated authority.

Subd. 8. "Marketing year" shall mean, generally, any time between the second day of February of the previous calendar year and the first day of February of the subsequent year, unless the commissioner shall determine an alternative time period for a specific agricultural commodity to be designated as its marketing year.

[1973 c 736 s 3]

#### 17.694 Accreditation

Subdivision 1. Any association accredited under this section may engage in bargaining as provided for under sections 17.691 to 17.701.

(1) An association desiring accreditation shall file with the commissioner in the form required by the commissioner. The request shall contain properly certified evidence that the association meets the standards for accreditation and shall be accompanied by a report of the names and addresses of member producers, the name of each handler to whom the member producer delivered or contracted to deliver the agricultural commodity during the previous two calendar years and the quantity delivered or acreage grown. A fee to cover the costs of the commissioner in processing the request shall be established pursuant to Chapter 15, and paid by the association when the request is filed.

(2) The commissioner may require all handlers of an agricultural commodity produced in a bargaining unit area as individuals or through their trade association to file with the board within 30 days following such a request, a report, properly certified, showing the correct names and addresses of all producers of the agricultural commodity who have delivered the agricultural commodity to the handler during the two calendar years preceding the filing

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of the report and the quantities of the agricultural commodity received by the handler from each named producer during those periods. The information contained in the individual reports of handlers filed with the commissioner shall not be made public by the commissioner nor available to any person for private use.

Subd. 2. In determination of accreditation, the commissioner shall determine whether bargaining shall be appropriate by plant, processor, or company. This determination shall be the unit area for the bargaining provisions of sections 17.691 to 17.701 as is applicable to associations and handlers. In making his determination, the commissioner shall define as appropriate the largest bargaining unit area in terms of the quantity of the agricultural commodity produced, the definition of the agricultural commodity, geographic area covered and number of producers included as is consistent with the following criteria:

- (a) The community of interest of the producers included;
- (b) The potential serious conflicts of interests among members of the proposed unit;
- (c) The effect of exclusions on the capacity of the association to effectively bargain for the bargaining unit as defined;
- (d) The kinds, types and subtypes of products to be classed together as agricultural commodity for which the bargaining unit is proposed;
- (e) Whether the producers eligible for membership in the proposed bargaining unit meet the definition of "producer" for the agricultural commodity involved;
- (f) The wishes of the producers;
- (g) The pattern of past marketing of the commodity.

Subd. 3. An association shall be accredited only if it complies with the following:

- (a) The association meets the requirements of the Capper-Volstead Act, 7 U.S.C. 291-2.

(b) The association has submitted a copy of its bylaws which provide that: each member of the association shall have one vote in all votes of the membership of the association; that officers or directors shall be elected by a majority of the members voting or by delegates representing a majority of the membership; and that all elections shall be by secret ballot.

(c) The association would have marketing and bargaining contracts for the current or next marketing year with more than 50 percent of the producers of an agricultural commodity who are in the bargaining unit area and these contracts would cover more than 50 percent of the quantity of that commodity produced by producers in that bargaining unit area. The commissioner may determine the quantity produced by the bargaining unit area using information on production in the prior year, current marketing information, and projections on production during the current marketing year. The commissioner shall exclude from the quantity of the agricultural commodity contracted by producers with producer owned and controlled processing cooperatives and any quantity produced by handlers. An association whose main purpose is bargaining but which processes a surplus into a form which is not the subject of bargaining is not a processing cooperative. The contracts with members shall specify the agricultural commodity and that the members have appointed the association as their exclusive agent in negotiations with handlers for prices and other terms of trade with respect to the sale and marketing of the agricultural commodity and obligate the members of the association to dispose of their production or holdings of the agricultural commodity through or at the direction of the association.

Subd. 4. Within 60 days of the filing date of the request for accreditation by an association, the commissioner shall determine whether the association shall be accredited. If the commissioner determines that insufficient evidence

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was filed by the association, the commissioner may permit the association to file an amended request for accreditation within 30 days following the determination and notification of the association. The commissioner shall then determine, within 30 days of the filing of the amended request, whether the association shall be accredited. An association which is denied accreditation after filing of an amended request may not file another request for accreditation for a period of one year.

Subd. 5. Accreditation of the association by the commissioner shall be effective 30 days after the notice of accreditation.

Subd. 6. The commissioner shall consider revocation of accreditation upon any of the following conditions:

(a) Upon receipt of a request from an accredited association for its own disaccreditation

(b) Upon receipt of a petition requesting that the accredited association be disaccredited and bearing the signatures of at least ten percent of the producers of an accredited association in the bargaining unit. Following the receipt of a petition bearing the signatures of at least ten percent of the producers of an accredited association in a bargaining unit the board shall order the commissioner to initiate a referendum among the members of the accredited association and if in the referendum a majority of the producers, producing 50 percent of the commodity approve, the association accreditation shall be revoked by the board.

Subd. 7. The accredited association shall represent all member producers who are in the bargaining unit area and it shall act as exclusive sales agents for the bargaining unit area in negotiations with handlers. The association may not assess, bargain for, or claim to represent those producers who choose not to be represented by the association or choose not to have a bargaining committee bargain for them.

[1973 c 736 s 4]

#### 17.695 Marketing and bargaining committee

Subdivision 1. After accreditation of the association, the association shall establish and authorize a marketing and bargaining committee to negotiate, as the association's exclusive agent, with handlers for the sale and marketing of the agricultural commodity for which the association was accredited.

Subd. 2. This committee shall be comprised of members of the association elected by the association in a secret ballot election, except that the association may contract with legal counsel who shall, at the discretion of the association, be eligible for membership on the committee.

Subd. 3. The production of the agricultural commodity shall comprise a significant portion of the total producing operation of each committee member.

Subd. 4. Members who have any quantity contracted with a producer owned and controlled processing cooperative are not eligible to serve on a marketing and bargaining committee for such a commodity.

[1973 c 736 s 5]

#### 17.696 Unfair practices of handlers and associations

Subdivision 1. Producers of agricultural commodities are free to join together voluntarily in associations as authorized by law without interference by handlers. A handler shall not engage in any of the following practices, defined as unfair practices:

(a) To coerce a producer in the exercise of his right to join and belong to or to refrain from joining or belonging to an association or to refuse to deal with a producer because of the exercise of his right to join and belong to an association.

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(b) To discriminate against a producer with respect to price, quantity, quality or other terms of purchase, acquisition or other handling of agricultural products because of his membership in or contract with an association.

(c) To coerce or intimidate a producer to breach, cancel or terminate a membership agreement or marketing contract with an association or a contract with a handler.

(d) To pay or loan money, give anything of value or offer any other inducement or reward to a producer for refusing or ceasing to belong to an association.

(e) To make or circulate unsubstantiated reports about the finances, management or activities of associations or other handlers.

(f) To conspire, combine, agree or arrange with any other person to do or aid or abet the doing of any practice which is in violation of sections 17.691 to 17.701.

(g) To refuse to bargain with an association with whom the handler has had prior dealings or with an association whose producers in the bargaining units have had dealings with the handler prior to July 1, 1973.

Subd. 2. An association shall not engage nor permit an employee or agent to engage in the following practices, defined as unfair practices:

(a) To enter into a contract which discriminates against a producer represented by that association.

(b) To act in a manner contrary to the bylaws of the association.

(c) To coerce or intimidate a handler to breach, cancel or terminate an agreement or marketing contract with an association or a contract with a producer.

(d) To make or circulate unsubstantiated reports about the finances, management or activities of other associations or handlers.

(e) To conspire, combine, agree or arrange with another person to do or aid or abet the doing of any practice which is in violation of sections 17.691 to 17.701.

[1973 c 736 s 6]

**17.697 Bargaining defined; notice of commencement of negotiations; mediation procedure**

Subdivision 1. As used in sections 17.691 to 17.701, "bargaining" means the mutual obligation of a handler and an association or their designated representatives to meet at reasonable times and confer and negotiate in good faith. Negotiations may include all terms relative to trading between handlers and producers of the agricultural commodity such as:

(a) prices and terms of sale

(b) quality specifications

(c) quantity to be marketed by acreage or weight

(d) transactions involving products and services utilized by one party and provided by the other party.

Subd. 2. The association shall notify the commissioner of the commencement of negotiations.

Subd. 3. (a) If no agreement is reached at the expiration of ten days after service of such notice to the commissioner, the association may, at any time thereafter, petition the commissioner to assume supervision over the dispute, except as provided for by clause (e).

(b) The commissioner shall then set a time and place for conference with the parties to present facts representing each party's case and hearing arguments. The commissioner shall take such steps, in accordance with rules promulgated under sections 17.691 to 17.701, as he deems expedient to affect a voluntary, amicable and expeditious adjustment and settlement of the differences between the handler and the association.

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(c) At any time prior to 15 days before the first day of the marketing year in dispute, if an agreement on the issues in dispute between the association and the handler has not been reached, the handler may elect not to purchase, directly or indirectly, any quantity of the agriculture commodity produced by the association during that marketing year; or, the affected producers may elect not to sell, directly or indirectly, any quantity of the agricultural commodity produced by the association during that marketing year; or, the affected producers may elect not to sell, directly or indirectly, any quantity of the agricultural commodity to the handler during that marketing year.

(d) If either party makes an election, the other party is not under an obligation to continue bargaining with the party so electing for terms during the marketing period in dispute. Both parties may, however, engage immediately in bargaining for the following marketing year.

(e) If the petition requesting the commissioner to assume supervision over a dispute is presented 15 days or less before the marketing year in dispute, then the commissioner shall exercise his discretionary authority, according to rules promulgated under sections 17.691 to 17.701, in determining which disputes are arbitrable before the start of the marketing year in dispute.

[1973 c 736 s 7]

**17.698 Basis for mediation and bargaining decisions**

All decisions of mediation and bargaining which result from section 17.697 shall be based upon the following factors:

(a) Prices or projected prices for the agricultural commodity paid by the competing handlers in the market area or competing market areas.

(b) Amount of the commodity produced or projections of production in the production area or competing marketing areas.

(c) Relationship between the quantity produced and the quantity handled by the handler.

(d) The producers cost of production including the cost which would be involved in paying farm labor a fair wage rate and providing them with adequate housing.

(e) The average consumer prices for goods and services, commonly known as the cost of living.

(f) The impact of the award on the competitive position of the handler in the marketing area or competing areas.

(g) The impact of the award on the competitive position of the agricultural commodity in relationship to competing commodities.

(h) A fair return on investment.

(i) Kind, quality or grade of the commodity involved.

(j) Stipulation of the parties.

(k) Such other factors which are normally or traditionally taken into consideration in determining prices, quality, quantity and the costs of other services involved.

[1973 c 736 s 8]

**17.699 Time limit upon decisions**

The commissioner shall announce his findings of fact and decisions in all cases in which he has assumed supervision during the year previous to the marketing year in dispute by the fifteenth day of the marketing year in dispute. To expedite his decisions, the commissioner may engage the services of the bureau of mediation services, whose recommendations he shall consider in his final determination.

[1973 c 736 s 9]

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**17.70 Violation procedure**

Subdivision 1. For the purpose of sections 17.691 to 17.701, the commissioner may receive complaints with respect to violations or threatened violations. The commissioner may make all necessary investigations, examinations or inspections of any violation or threatened violation specified in the sworn complaint filed with the commissioner. If, upon such investigation, the commissioner considers that there is reasonable cause to believe that the person charged has committed a practice in violation of sections 17.691 to 17.701, the commissioner shall issue and cause to be served a complaint upon the person. The complaint shall summon the person to a hearing before the commissioner at the time and place fixed.

Subd. 2. If the commissioner determines that the person complained of has committed a practice in violation of sections 17.691 to 17.701, he shall state his findings of fact and shall issue and cause to be served on the person an order requiring him to cease the violation and shall order further affirmative action as will effectuate the policies of sections 17.691 to 17.701.

Subd. 3. If the commissioner is of the opinion that the person complained of has not committed a practice in violation of sections 17.691 to 17.701, he shall make his findings of fact and issue an order dismissing the complaint.

Subd. 4. Until the record in a case has been filed in a court the commissioner may, at any time upon reasonable notice and in such manner as he deems proper, modify or set aside, in whole or in part, any finding or order he has made or issued, with jurisdiction for such a change specified in additional findings of fact.

Subd. 5. The commissioner may request the attorney general of the state of Minnesota to seek the appropriate temporary relief or restraining order of injunction in district court to insure the enforcement of his findings.

[1973 c 736 s 10]

**17.701 Rules**

The commissioner may promulgate rules necessary for the administration of sections 17.691 to 17.701 in accordance with sections 17.691 to 17.701 and Chapter 15.

[1973 c 736 s 11]

**FERTILIZER AND SOIL CONDITIONER LAW**

**17.718 Tonnage report**

Subdivision 1. Each licensed distributor of commercial fertilizer under section 17.717, subdivision 1, and each registrant of commercial fertilizer or soil conditioner under section 17.717, subdivision 2, shall file with the commissioner on forms furnished by the commissioner, a semiannual statement for the periods ending December 31 and June 30 setting forth the number of net tons of each grade of commercial fertilizer or soil conditioner distributed in this state during such reporting period. The report shall be due on or before the 30th of the month following the close of each reporting period of each calendar year. The inspection fee at the rate stated in section 17.717, subdivisions 3 to 5 shall accompany the statement. For the tonnage report that is not filed or the payment of inspection fees that is not made within 30 days after the end of the reporting period, a penalty of ten percent of the amount due, with a minimum penalty of \$10, shall be assessed against the licensee or registrant, and the total amount of fees due, plus penalty, shall constitute a debt and may be recovered in a civil action against the licensee or registrant. The assessment of this penalty shall not prevent the department from taking other actions as provided in this chapter. The commissioner may by regulation



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require additional reports for the purpose of gathering statistical data relating to fertilizer and soil conditioner distribution in the state.

[1973 c 381 s 1]

[For text of subds. 2 and 3, see M.S.1971]

FEDERAL EMERGENCY LOANS TO INDIVIDUALS [NEW]

17.74 Capacity of individual to contract for loan

Notwithstanding the provisions of any law to the contrary a person who has attained the full age of 18 years, if otherwise competent, is legally capable to contract for an emergency loan as authorized under sections 1961 to 1967 of title 7 of the United States Code.

[1973 c 2 s 1]

17.75 Capacity of individual to give security

Notwithstanding the provisions of any law to the contrary a person who has attained the full age of 18 years, if otherwise competent, is legally capable to give such security as the secretary of agriculture may prescribe for any emergency loan referred to in section 17.74.

[1973 c 2 s 2]

CHAPTER 18. PLANT AND ANIMAL PEST CONTROL

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LOCAL PEST CONTROL

18.022 Insect pests, plant diseases, bee diseases, and destructive or nuisance animals

[For text of subd. 1, see M.S.1971]

**Subd. 2. Cost.** (a) In order to defray the cost of such activities, the governing body of any such political subdivision may levy a special tax which, except when levied by a county, shall not exceed two mills in any year in excess of charter or statutory millage limitations, but not in any event more than 50 cents per capita, and any such political subdivision may make such a levy, where necessary, separate from the general levy and at any time of the year. (b) If, because of the prevalence of Dutch elm disease, the governing body of such a political subdivision is unable to defray the cost of control activities authorized by this section within the limits set by this subdivision, the limits set by this subdivision are increased to four mills, but not in any event more than one dollar per capita.

[1973 c 583 s 3]

[For text of subds. 3 to 7, see M.S.1971]

PLANT PEST ACT

18.46 Definitions

[For text of subds. 1 to 8, see M.S.1971]

**Subd. 9. A dealer:** A dealer is any person who obtains nursery stock for the purpose of sale or distribution and includes any person who sells and distributes for more than one nurseryman. If a person purchases more than