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**4. AGRICULTURAL FAIR PRACTICES ACT OF 1967**

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May 22, 2008

## 4. AGRICULTURAL FAIR PRACTICES ACT OF 1967

(Public Law 90-288, April 16, 1968)

[As Amended Through P.L. 110-246, Effective May 22, 2008]

AN ACT To prohibit unfair trade practices affecting producers of agricultural products, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act shall be known as the Agricultural Fair Practices Act of 1967.

### LEGISLATIVE FINDINGS AND DECLARATION OF POLICY

SEC. 2. [7 U.S.C. 2301] Agricultural products are produced in the United States by many individual farmers and ranchers scattered throughout the various States of the Nation. Such products in fresh or processed form move in large part in the channels of interstate and foreign commerce, and such products which do not move in these channels directly burden or affect interstate commerce. The efficient production and marketing of agricultural products by farmers and ranchers is of vital concern to their welfare and to the general economy of the Nation. Because agricultural products are produced by numerous individual farmers, the marketing and bargaining position of individual farmers will be adversely affected unless they are free to join together voluntarily in cooperative organizations as authorized by law. Interference with this right is contrary to the public interest and adversely affects the free and orderly flow of goods in interstate and foreign commerce.

It is, therefore, declared to be the policy of Congress and the purpose of this Act to establish standards of fair practices required of handlers in their dealings in agricultural products.

### DEFINITIONS

SEC. 3. [7 U.S.C. 2302] In this Act:

(1) AGRICULTURAL PRODUCTS.—The term “agricultural products” shall not include cotton or tobacco or their products.

(2) ASSOCIATION OF PRODUCERS.—

(A) IN GENERAL.—The term “association of producers” means any association of producers of agricultural products engaged in marketing, bargaining, shipping, or processing as defined in section 15(a) of the Agricultural Marketing Act of 1929, as amended (49 Stat. 317; 12 U.S.C. 1141j(a)), or in section 1 of the Act entitled “An Act to authorize association of producers of agricultural products”, approved February 18, 1922 (42 Stat. 388; 7 U.S.C. 291).

(B) INCLUSION.—The term “association of producers” includes an organization whose membership is exclusively limited to agricultural producers and dedicated to promoting the common interest and general welfare of producers of agricultural products.

(3) HANDLER.—

(A) IN GENERAL.—The term “handler” means any person engaged in the business or practice of—

(i) acquiring agricultural products from producers or associations of producers for processing or sale; or

(ii) grading, packaging, handling, storing, or processing agricultural products received from producers or associations of producers; or

(iii) contracting or negotiating contracts or other arrangements, written or oral, with or on behalf of producers or association of producers with respect to the production or marketing of any agricultural product; or

(iv) acting as an agent or broker for a handler in the performance of any function or act specified in clause (i), (ii), or (iii).

(B) EXCLUSION.—The term “handler” does not include a person, other than a packer (as defined in section 201 of the Packers and Stockyards Act, 1921 (7 U.S.C. 191)), that provides custom feeding services for a producer.

(4) PRODUCER.—The term “producer” means a person engaged in the production of agricultural products as a farmer, planter, rancher, dairyman, fruit, vegetable, or nut grower.

#### PROHIBITED PRACTICES

SEC. 4. [7 U.S.C. 2303] It shall be unlawful for any handler knowingly to engage or permit any employee or agent to engage in the following practices:

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

(b) To discriminate against any 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 of producers; or

(c) To coerce or intimidate any producer to enter into, maintain, breach, cancel, or terminate a membership agreement or marketing contract with an association of producers or a contract with a handler; or

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

(e) To make false reports about the finances, management, or activities of associations of producers or handlers; or

(f) To conspire, combine, agree, or arrange with any other person to do, or aid or abet the doing of, any act made unlawful by this Act.

#### DISCLAIMER OF INTENTION TO PROHIBIT NORMAL DEALING

SEC. 5. [7 U.S.C. 2304] Nothing in this Act shall prevent handlers and producers from selecting their customers and suppliers for any reason other than a producer’s membership in or contract with an association of producers, nor require a handler to deal with an association of producers.

## ENFORCEMENT

SEC. 6. [7 U.S.C. 2305] (a) Whenever any handler has engaged or there are reasonable grounds to believe that any handler is about to engage in any act or practice prohibited by section 4, a civil action for preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order, may be instituted by the person aggrieved. In any action commenced pursuant hereto, the court, in its discretion, may allow the prevailing party a reasonable attorney's fee as part of the costs. The court may provide that no restraining order or preliminary injunction shall issue except upon the giving of security by the applicant, in such sum as the court deems proper, for the payment of such costs and damages as may be incurred or suffered by any party who is found to have been wrongfully enjoined or restrained.

(b) Whenever the Secretary of Agriculture has reasonable cause to believe that any handler, or group of handlers, has engaged in any act or practice prohibited by section 4, he may request the Attorney General to bring civil action in his behalf in the appropriate district court of the United States by filing with it a complaint (1) setting forth facts pertaining to such act or practice, and (2) requesting such preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order against the handler, or handlers, responsible for such acts or practices. Upon receipt of such request, the Attorney General is authorized to file such complaint.

(c) Any person injured in his business or property by reason of any violation of, or combination or conspiracy to violate, any provision of section 4 of this Act may sue therefor in the appropriate district court of the United States without respect to the amount in controversy, and shall recover damages sustained. In any action commenced pursuant to this subsection, the court may allow the prevailing party a reasonable attorney's fee as a part of the costs. Any action to enforce any cause of action under this subsection shall be forever barred unless commenced within two years after the cause of action accrued.

(d) The district courts of the United States shall have jurisdiction of proceedings instituted pursuant to this section and shall exercise the same without regard to whether the aggrieved party shall have exhausted any administrative or other remedies that may be provided by law.

The provisions of this Act shall not be construed to change or modify existing State law nor to deprive the proper State courts of jurisdiction.

## SEPARABILITY

SEC. 7. [7 U.S.C. 2306] If any provision of this Act or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the Act and of the application of such provision to other persons and circumstances shall not be affected thereby.