REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in par. (2), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

AMENDMENTS

1981—Pub. L. 97–98 substituted provision relating to termination of advisory committees for provision relating to advisory committee charter requirements.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–98 effective Dec. 22, 1981, see section 1801 of Pub. L. 97–98, set out as an Effective Date note under section 4301 of this title.

§§ 2287 to 2289. Omitted

Sections 2287 to 2289 of this title were omitted in the general amendment of this chapter by Pub. L. 97–98, title XI, § 1116(a), Dec. 22, 1981, 95 Stat. 1270.

Section 2287, Pub. L. 95–113, title XVIII, § 1807, Sept. 29, 1977, 91 Stat. 1043, related to transmission of an annual report. See section 2284 of this title.

Section 2288, Pub. L. 95–113, title XVIII, § 1808, Sept. 29, 1977, 91 Stat. 1044, related to budget prohibitions. See section 2285 of this title.

Section 2289, Pub. L. 95–113, title XVIII, § 1809, Sept. 29, 1977, 91 Stat. 1044, related to termination of advisory committees. See section 2286 of this title.

CHAPTER 56—UNFAIR TRADE PRACTICES AFFECTING PRODUCERS OF AGRICULTURAL PRODUCTS

Sec.
2301. Congressional findings and declaration of policy.
2302. Definitions.
2303. Prohibited practices.
2304. Disclaimer of intention to prohibit normal dealing.
2305. Enforcement provisions.
2306. Separability.

§ 2301. Congressional findings and declaration of policy

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 chapter to establish standards of fair practices required of handlers in their dealings in agricultural products.

(Pub. L. 90–288, § 2, Apr. 16, 1968, 82 Stat. 93.)

SHORT TITLE

Section 1 of Pub. L. 90–288 provided that: ''This Act [enacting this chapter] shall be known as the 'Agricultural Fair Practices Act of 1967'.''

§ 2302. Definitions

In this chapter:

(1) Agricultural products

The term ''agricultural products'' shall not include cotton or tobacco or their products.

(2)(2)[1] 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 1141j(a) of title 12, or in section 291 of this title.

(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)(3)[1] 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 associations 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 191 of this title), 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.

(Pub. L. 90–288, § 3, Apr. 16, 1968, 82 Stat. 94; Pub. L. 110–234, title XI, § 11003, May 22, 2008, 122 Stat. 1354; Pub. L. 110–246, § 4(a), title XI, § 11003, June 18, 2008, 122 Stat. 1664, 2116.)

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 made identical amendments to this section. The amendments by Pub. L. 110–234 were repealed by section 4(a) of Pub. L. 110–246.

AMENDMENTS

2008—Pub. L. 110–246, § 11003, in introductory provisions, substituted ''In this chapter:'' for ''When used in

[1] So in original.

this chapter—'', redesignated subsecs. (e), (c), (a), and (b) as pars. (1) to (4), respectively, inserted par. headings, in pars. (2) and (3), inserted duplicate par. designations, designated existing provisions as subpar. (A), and added subpar. (B), in par. (3), redesignated cls. (1) to (4) as (i) to (iv), respectively, in cl. (iv), substituted ''clause (i), (ii), or (iii)'' for ''clause (1), (2), or (3) of this paragraph'', and struck out subsec. (d) which read as follows: ''The term 'person' includes individuals, partnerships, corporations, and associations.''

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, see section 4 of Pub. L. 110–246, set out as an Effective Date note under section 8701 of this title.

§ 2303. Prohibited practices

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 chapter.

(Pub. L. 90–288, § 4, Apr. 16, 1968, 82 Stat. 94.)

§ 2304. Disclaimer of intention to prohibit normal dealing

Nothing in this chapter 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.

(Pub. L. 90–288, § 5, Apr. 16, 1968, 82 Stat. 95.)

§ 2305. Enforcement provisions

(a) Civil actions by persons aggrieved; preventive relief; attorneys' fees; security

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 2303 of this title, 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) Civil actions by Attorney General; Federal jurisdiction; complaint; preventive relief

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 2303 of this title, 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) Suits by persons injured; Federal jurisdiction; amount of recovery; attorneys' fees; limitation of actions

Any person injured in his business or property by reason of any violation of, or combination or conspiracy to violate, any provision of section 2303 of this title 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) Federal jurisdiction; exhaustion of other remedies; State laws and jurisdiction unaffected

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 chapter shall not be construed to change or modify existing State law nor to deprive the proper State courts of jurisdiction.

(Pub. L. 90–288, § 6, Apr. 16, 1968, 82 Stat. 95.)

§ 2306. Separability

If any provision of this chapter or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the chapter and of the application of such provision to other persons and circumstances shall not be affected thereby.

(Pub. L. 90–288, § 7, Apr. 16, 1968, 82 Stat. 95.)

CHAPTER 57—PLANT VARIETY PROTECTION

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SUBCHAPTER I—PLANT VARIETY PROTECTION OFFICE

PART A—ORGANIZATION AND PUBLICATIONS

§ 2321. Establishment

There is hereby established in the Department of Agriculture an office to be known as the Plant Variety Protection Office, which shall have the functions set forth in this chapter.

(Pub. L. 91–577, title I, §1, Dec. 24, 1970, 84 Stat. 1542; Pub. L. 96–574, §1, Dec. 22, 1980, 94 Stat. 3350.)

AMENDMENTS

1980—Pub. L. 96–574 substituted ''an office'' for ''a bureau''.

EFFECTIVE DATE

Section 141 of Pub. L. 91–577 provided that: ''This Act [this chapter] shall take effect upon enactment [Dec. 24, 1970]. Applications may be filed with the Secretary and held by him until the Office of Plant Variety Protection is organized and in operation''.

SHORT TITLE OF 1994 AMENDMENT

Pub. L. 103–349, §1(a), Oct. 6, 1994, 108 Stat. 3136, provided that: ''This Act [amending sections 2327, 2330, 2353, 2354, 2357, 2401, 2402, 2404, 2422, 2423, 2424, 2425, 2442, 2461, 2462, 2463, 2482, 2483, 2486, 2501, 2504, 2532, 2541, 2542, 2543, 2561, 2566, 2567, 2568, and 2570 of this title, repealing sections 2463, 2502 and 2503 of this title, and enacting provisions set out as notes under section 2401 of this