Public Law 98-590
98th Congress

An Act

To enable honey producers and handlers to finance a nationally coordinated research, promotion, and consumer information program designed to expand their markets for honey.

Oct. 30, 1984
[H.R. 5358]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Honey Research, Promotion, and Consumer Information Act.
7 USC 4601 note.

SHORT TITLE

SECTION 1. This Act may be cited as the "Honey Research, Promotion, and Consumer Information Act".

FINDINGS AND DECLARATION OF POLICY

7 USC 4601.

SEC. 2. The Congress finds that:

(1) Honey is produced by many individual producers in every State in the United States.

(2) Honey and honey products move in large part in the channels of interstate and foreign commerce, and honey which does not move in such channels directly burdens or affects interstate commerce.

(3) In recent years, large quantities of low-cost, imported honey have been brought into the United States, replacing domestic honey in the normal trade channels.

(4) The maintenance and expansion of existing honey markets and the development of new or improved markets or uses are vital to the welfare of honey producers and those concerned with marketing, using, and processing honey, along with those engaged in general agricultural endeavors requiring bees for pollinating purposes.

(5) The honey production industry within the United States is comprised mainly of small- and medium-sized businesses.

(6) The development and implementation of coordinated programs of research, promotion, and consumer education necessary for the maintenance of markets and the development of new markets have been inadequate.

(7) Without cooperative action in providing for and financing such programs, honey producers, honey handlers, wholesalers, and retailers are unable to implement programs of research, promotion, and consumer education necessary to maintain and improve markets for these products.

Research and development. Marketing.

(b)(1) It is, therefore, the purpose of this Act to authorize the establishment of an orderly procedure for the development and financing, through an adequate assessment, of an effective and coordinated program of research, promotion, and consumer education designed to strengthen the position of the honey industry in the marketplace and maintain, develop, and expand markets for honey and honey products.

AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

Commerce and trade.

(2) Nothing in this Act may be construed to dictate quality standards for honey, provide for control of its production, or otherwise limit the right of the individual honey producer to produce honey. This Act treats foreign producers equitably, and nothing in this Act may be construed as a trade barrier to honey produced in foreign countries.

DEFINITIONS

7 USC 4602.

SEC. 3. As used in this Act:

(1) The term "honey" means the nectar and saccharine exudations of plants which are gathered, modified, and stored in the comb by honey bees.

(2) The term "honey products" means products produced, in whole or part, from honey.

(3) The term "Secretary" means the Secretary of Agriculture.

(4) The term "person" means any individual, group of individuals, partnership, corporation, association, cooperative, or any other entity.

(5) The term "producer" means any person who produces honey in the United States for sale in commerce.

(6) The term "handler" means any person who handles honey.

(7) The term "handle" means to sell, package, or process honey.

(8) The term "importer" means any person who imports honey or honey products into the United States or who acts as an agent, broker, or consignee for any person or nation that produces honey outside of the United States for sale in the United States.

(9) The term "producer-packer" means any person who is both a producer and handler of honey.

(10) The term "promotion" means any action, including paid advertising, pursuant to this Act, to present a favorable image for honey or honey products to the public with the express intent of improving the competitive position and stimulating sales of honey or honey products.

(11) The term "research" means any type of research designed to advance the image, desirability, usage, marketability, production, or quality of honey or honey products.

(12) The term "consumer education" means any action to provide information on the usage and care of honey or honey products.

(13) The term "marketing" means the sale or other disposition in commerce of honey or honey products.

(14) The term "Committee" means the National Honey Nominations Committee provided for under section 7(b) of this Act.

(15) The term "Honey Board" means the board provided for under section 7(c) of this Act.

(16) The term "State association" means that organization of beekeepers in a State which is generally recognized as representing the beekeepers of that State.

(17) The term "State" means any of the several States, the District of Columbia and the Commonwealth of Puerto Rico.

HONEY RESEARCH, PROMOTION, AND CONSUMER INFORMATION ORDER

Imports.
7 USC 4603.

SEC. 4. To effectuate the declared policy of this Act, the Secretary shall, subject to the provisions of this Act, issue and, from time to

time, amend orders applicable to persons engaged in the production, sale, or handling of honey and honey products in the United States and the importation of honey and honey products into the United States.

NOTICE AND HEARING

SEC. 5. Whenever the Secretary has reason to believe that the issuance of an order will assist in carrying out the purpose of this Act, the Secretary shall provide due notice of and opportunity for a hearing upon a proposed order. Such hearing may be requested and a proposal for an order submitted by any organization or interested person affected by the provisions of this Act. 7 USC 4604.

FINDINGS AND ISSUANCE OF AN ORDER

SEC. 6. After notice of and opportunity for a hearing has been provided in accordance with section 5 of this Act, the Secretary shall issue an order if the Secretary finds, and sets forth in such order, that, upon the evidence introduced at such hearing, the issuance of such order and all the terms and conditions thereof will assist in carrying out the purpose of this Act. 7 USC 4605.

REQUIRED TERMS OF AN ORDER

SEC. 7. (a) Any order issued by the Secretary under this Act shall contain the terms and conditions described in this section and, except as provided in section 8 of this Act, no others. 7 USC 4606.

(b)(1) Such order shall provide for the establishment and appointment by the Secretary of a National Honey Nominations Committee which shall consist of not more than one member from each State, from nominations submitted by each State association. If a State association does not submit a nomination, the Secretary may provide for nominations from that State to be made in a different manner, except that if a State which is not one of the top twenty honey-producing States in the United States (as determined by the Secretary) does not submit a nomination, such State shall not be represented on the Committee. National Honey Nominations Committee, establishment.

(2) Members of the Committee shall serve for three-year terms with no member serving more than two consecutive three-year terms, except that the initial appointments to the Committee shall be staggered with an equal number of members appointed, to the maximum extent possible, to one-year, two-year, and three-year terms.

(3) The Committee shall select its Chairman by a majority vote.

(4) The members of the Committee shall serve without compensation but shall be reimbursed for their reasonable expenses incurred in performing their duties as members of the Committee.

(5) The Committee shall nominate the members and alternates of the Honey Board and submit such nominations to the Secretary. In making such nominations, the Committee shall meet annually, except that after the first annual meeting, when determined by the Chairman, the Committee may conduct its business by mail ballot in lieu of an annual meeting. In order to nominate members to the Honey Board, at least 50 per centum of the members from the twenty leading honey producing States must vote. A majority of the National Honey Nominations Committee shall constitute a quorum

for voting at an annual meeting. In the case of a mail ballot, votes must be received from a majority of the Committee.

Honey Board, establishment.

(c)(1) The order described in subsection (a) shall provide for the establishment and appointment by the Secretary of a Honey Board in accordance with this subsection.

(2) The membership of the Honey Board shall consist of—

(A) seven members who are honey producers appointed from nominations submitted by the National Honey Nominations Committee, one from each of seven regions of the United States which shall be established by the Secretary on the basis of the production of honey in the different areas of the country;

(B) two members who are handlers of honey appointed from nominations submitted by the Committee from recommendations made by industry organizations representing handler interests;

(C) two members who are importers appointed from nominations submitted by the Committee from recommendations made by industry organizations representing importer interests;

(D) one member who is an officer or employee of a honey marketing cooperative appointed from nominations submitted by the Committee; and

(E) one member selected by the Secretary from the general public.

The Committee shall also nominate an alternate or alternates for each member of the Honey Board described in subparagraphs (A) through (D), and the Secretary shall appoint an alternate for the member described in subparagraph (E). Such alternates shall be appointed in the same manner as members are and shall serve only whenever the member is absent from a meeting or is disqualified.

(3) Members of the Honey Board shall serve for three-year terms with no member serving more than two consecutive three-year terms except that the initial appointments to the Honey Board shall be staggered with an equal number of members appointed, to the maximum extent possible, to one-year, two-year, and three-year terms.

(4) In the event any member of the Honey Board ceases to be a member of the category of members from which the member was appointed to the Honey Board, such person shall be automatically replaced by an alternate.

(5) The members of the Honey Board shall serve without compensation but shall be reimbursed for their reasonable expenses incurred in performing their duties as members of the Honey Board.

(6) The powers and duties of the Honey Board shall be to—

(A) administer any order, issued by the Secretary under this Act, in accordance with its terms and provisions and consistent with the provisions of this Act;

(B) prescribe rules and regulations to effectuate the terms and provisions of such an order;

(C) receive, investigate, and report to the Secretary, accounts of violations of such an order;

(D) make recommendations to the Secretary with respect to amendments which should be made to such order; and

(E) employ a manager and staff.

(d) The Honey Board shall prepare and submit to the Secretary, for the Secretary's approval, a budget (on a fiscal period basis) of its anticipated expenses and disbursements in the administration of the

order, including probable costs of research, promotion, and consumer information.

(e)(1) The Honey Board shall administer collection of the assessment provided for in this paragraph to finance the expenses described in subsections (d) and (f). For the first year in which the plan is in effect, the assessment rate shall be $0.01 per pound, with payment to be made in the manner described in section 9. After the first year, the Honey Board may submit to the Secretary a request for an increase in the assessment rate not to exceed 0.5 cent per year, but at no time may the total assessment rate exceed $0.04 per pound.

(2) A producer or producer-packer who produces, or handles, or produces and handles less than six thousand pounds of honey per year or an importer who imports less than six thousand pounds of honey per year shall be exempt from the assessment. In order to claim such an exemption, a person shall submit an application to the Honey Board stating that their production, handling, or importation of honey shall not exceed six thousand pounds for the year for which the exemption is claimed. Exemptions.

(f) Funds collected by the Honey Board from the assessments shall be used by the Honey Board for financing research, promotion, and consumer information, other expenses as described in subsection (d), such other expenses for the administration, maintenance, and functioning of the Honey Board as may be authorized by the Secretary, any reserve established under section 8(5), and those administrative costs incurred by the Department of Agriculture pursuant to this Act after an order has been promulgated under this Act. The Secretary shall be reimbursed from assessments collected by the Honey Board for any expenses incurred for the conduct of referenda.

(g) No promotion funded with assessments collected under this Act may make any false or unwarranted claims on behalf of honey or its products or false or unwarranted statements with respect to the attributes or use of any competing product. Claims.

(h) No funds collected through assessments authorized by this Act may, in any manner, be used for the purpose of influencing governmental policy or action, except for making recommendations to the Secretary as provided for in this Act. Lobbying.

(i) The Honey Board shall develop and submit to the Secretary, for approval, plans for research, promotion, and consumer information. Any such plans or projects must be approved by the Secretary before becoming effective. The Honey Board may enter into contracts or agreements with the approval of the Secretary for the development and carrying out of research, promotion, and consumer information, and for the payment of the cost thereof with funds collected pursuant to this Act. Research and development. Marketing.

(j) The Honey Board shall maintain books and records and prepare and submit to the Secretary such reports from time to time as may be required for appropriate accounting with respect to the receipt and disbursement of funds entrusted to it and cause a complete audit report to be submitted to the Secretary at the end of each fiscal year. Records. Reports.

PERMISSIVE TERMS AND PROVISIONS

SEC. 8. On the recommendation of the Honey Board, and with the approval of the Secretary, an order issued pursuant to this Act may contain one or more of the following provisions: 7 USC 4607.

(1) Providing authority to exempt from the provisions of the order honey used for exporting and providing authority for the Honey Board to require satisfactory safeguards against improper use of such exemption.

(2) Providing that in a State with an existing marketing order with respect to honey, the objectives of which the Secretary determines are comparable to the program established under this Act, there shall be paid to the Honey Board as provided in section 9 that portion of the national assessment which is above the State assessment, if any, actually paid on such honey.

(3) Providing for authority to designate different handler payment and reporting schedules to recognize differences in marketing practices and procedures.

(4) Providing that the Honey Board may convene from time to time working groups drawn from producers, honey handlers, importers, exporters, members of the wholesale or retail outlets for honey, or other members of the public to assist in the development of research and marketing programs for honey.

(5) Providing for authority to accumulate reserve funds from assessments collected pursuant to this Act to permit an effective and continuous coordinated program of research, promotion, and consumer information, in years when the production and assessment income may be reduced, but the total reserve fund may not exceed the amount budgeted for one year's operation.

(6) Providing for the authority to use funds collected under this Act with the approval of the Secretary for the development and expansion of honey and honey product sales in foreign markets.

(7) Providing for terms and conditions incidental to, and not inconsistent with, the terms and conditions specified in this Act and necessary to effectuate the other provisions of such an order.

COLLECTION OF ASSESSMENTS; REFUNDS

7 USC 4608.

SEC. 9. (a) Except as provided by subsections (c), (d), and (e), the first handler of honey shall be responsible for the collection from the producer, and payment to the Honey Board, of assessments authorized by this Act.

Records.

(b) The first handler shall maintain a separate record on each producer's honey so handled, including honey owned by the handler.

Imports.

(c) The assessment on imported honey and honey products shall be paid by the importer at the time of entry into the United States and shall be remitted to the Honey Board.

(d) In any case in which a loan is made with respect to any honey under the Honey Loan Price Support Program, the Secretary shall provide that the assessment shall be deducted from the proceeds of the loan and that the amount of such assessment shall be forwarded to the Honey Board. When such loan is redeemed, the Secretary shall provide the producer with proof of payment of the assessment.

(e) Producer-packers shall pay to the Honey Board the assessment on the honey they produce.

Records.

(f) Handlers, importers, and producer-packers responsible for payment of assessments shall maintain and make available for inspection by the Secretary such books and records as are required by the order and file reports at the times, in the manner, and having the content prescribed by the order, so that information and data shall be made available to the Honey Board and to the Secretary which is

appropriate or necessary to the effectuation, administration, or enforcement of the Act or of any order or regulation issued pursuant to this Act.

(g) All information obtained pursuant to subsection (f) shall be kept confidential by all officers and employees of the Department of Agriculture and of the Honey Board. Only such information as the Secretary deems relevant shall be disclosed and only in a suit or administrative hearing brought at the request of the Secretary or to which the Secretary or any officer of the United States is a party involving the order with reference to which the information was furnished or acquired. Nothing in this section prohibits— Confidentiality.

(1) issuance of general statements based upon the reports of a number of handlers subject to any order, if such statements do not identify the information furnished by any person; or

(2) the publication by direction of the Secretary, of the name of any person violating any order issued under this Act, together with a statement of the particular provisions of the order violated by such person.

(h) Any producer or importer may obtain a refund of the assessment collected from the producer or importer if demand is made within the time and in the manner prescribed by the Honey Board and approved by the Secretary; except that, during any year, the amount of refunds made to importers, as a percentage of total assessments collected from importers, shall not exceed the amount of refunds made to domestic producers, as a percentage of total assessments collected from such producers. Such refund shall be made by the Honey Board in June and December of each year.

PETITION AND REVIEW

SEC. 10. (a) Any person subject to an order may file, within a period prescribed by the Secretary, a written petition with the Secretary, stating that such order or any provision of such order or any obligation imposed in connection therewith is not in accordance with law and requesting a modification thereof or to be exempted therefrom. Such person shall thereupon be given an opportunity for a hearing upon such petition, in accordance with regulations made by the Secretary. After such hearing, the Secretary shall make a ruling upon such petition which shall be final, if in accordance with law. 7 USC 4609.

(b) The district courts of the United States in any district in which such person is an inhabitant, or carries on business, are hereby vested with jurisdiction to review such ruling, provided a complaint for that purpose is filed within twenty days from the date of the entry of such ruling. Service of process in such proceedings may be had upon the Secretary by delivering to the Secretary a copy of the complaint. If the court determines that such ruling is not in accordance with law, it shall remand such proceedings to the Secretary with directions either (1) to make such ruling as the court shall determine to be in accordance with law, or (2) to take such further proceedings as, in its opinion, the law requires. The pendency of proceedings instituted pursuant to subsection (a) of this section shall not impede, hinder, or delay the United States or the Secretary from obtaining relief pursuant to section 11 of this Act.

ENFORCEMENT

Crimes and misdemeanors. 7 USC 4610.

SEC. 11. (a) The several district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and restrain any person from violating, any plan or regulation issued under this Act. The facts relating to any civil action authorized to be brought under this subsection shall be referred to the Attorney General for appropriate action. Nothing in this Act shall be construed as requiring the Secretary to refer to the Attorney General violations of this Act whenever the Secretary believes that the administration and enforcement of any such plan or regulation would be adequately served by administrative action under subsection (b) or suitable written notice or warning to any person committing such violations.

(b)(1) Any person who violates any provision of any plan or regulation issued by the Secretary under this Act, or who fails or refuses to pay, collect, or remit any assessment or fee duly required of such person thereunder, may be assessed a civil penalty by the Secretary of not less than $500 nor more than $5,000 for each such violation. Each violation shall be a separate offense. In addition to or in lieu of such civil penalty the Secretary may issue an order requiring such person to cease and desist from continuing such violations. No penalty shall be assessed or cease and desist order issued unless such person is given notice and opportunity for a hearing before the Secretary with respect to such violation, and the order of the Secretary assessing a penalty or imposing a cease and desist order shall be final and conclusive unless the affected person files an appeal from the Secretary's order with the appropriate United States court of appeals.

(2) Any person against whom a violation is found and a civil penalty assessed or cease and desist order issued under paragraph (1) may obtain review in the court of appeals of the United States for the circuit in which such person resides or carries on business or in the United States Court of Appeals for the District of Columbia Circuit by filing a notice of appeal in such court within thirty days from the date of such order and by simultaneously sending a copy of such notice by certified mail to the Secretary. The Secretary shall promptly file in such court a certified copy of the record upon which such violation was found. The findings of the Secretary shall be set aside only if found to be unsupported by substantial evidence.

Records.

(3) Any person who fails to obey a cease and desist order after it has become final and unappealable, or after the appropriate court of appeals has entered a final judgment in favor of the Secretary, shall be subject to a civil penalty assessed by the Secretary, after opportunity for a hearing and for judicial review under the procedures specified in paragraphs (1) and (2) of not more than $500 for each offense, and each day during which such failure continues shall be deemed a separate offense.

(4) If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order, or after the appropriate court of appeals has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General for recovery of the amount assessed in any appropriate district court of the United States. In such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

REQUIREMENTS OF REFERENDUM

SEC. 12. For the purpose of ascertaining whether issuance of an order is approved or favored by producers and importers, the Secretary shall conduct a referendum among those producers and importers not exempt under section 7(e)(2) who, during a representative period determined by the Secretary, have been engaged in the production and importation of honey. No order issued pursuant to this Act shall be effective unless the Secretary determines that the issuance of such an order is approved or favored by not less than two-thirds of the producers and importers voting in such referendum or by a majority of the producers and importers voting in such referendum if such majority produced and imported not less than two-thirds of the honey produced and imported during the representative period. The ballots and other information or reports which reveal, or tend to reveal, the vote of any producer or importer of honey shall be held strictly confidential and shall not be disclosed. 47 USC 4611. Confidentiality.

SUSPENSION AND TERMINATION

SEC. 13. (a) Whenever the Secretary finds that any order issued under this Act, or any provisions thereof, obstructs or does not tend to effectuate the declared purpose of this Act, the Secretary shall terminate or suspend the operation of such order or such provisions thereof. 7 USC 4612.

(b) Five years from the date on which the Secretary issues an order authorizing the collection of assessments on honey under provisions of this Act, and every five years thereafter, the Secretary shall conduct a referendum to determine if honey producers and importers favor the continuation, termination, or suspension of the order.

(c) The Secretary shall hold a referendum on the request of the Honey Board or when petitioned by 10 per centum or more of the honey producers and importers to determine if the honey producers and importers favor termination or suspension of the order.

(d) The Secretary shall terminate or suspend such order at the end of the marketing year whenever the Secretary determines that such

suspension or termination of the order is favored by a majority of those voting in a referendum and that the producers and importers comprising this majority produce and import more than 50 per centum of the volume of honey produced and imported by those voting in the referendum.

Approved October 30, 1984.

LEGISLATIVE HISTORY—H.R. 5358:

HOUSE REPORT No. 98-892 (Comm. on Agriculture).
CONGRESSIONAL RECORD, Vol. 130 (1984):
July 24, considered and passed House.
Oct. 4, considered and passed Senate.