

Agriculture

CHAPTER 17

DEPARTMENT OF AGRICULTURE

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DEPARTMENT ADMINISTRATION

17.01 CREATION OF DEPARTMENT; COMMISSIONER; DEPUTY.

There is created a department of agriculture, which shall be in the charge of a commissioner of agriculture, in this chapter called the commissioner, who shall be appointed by the governor under the provisions of section 15.06. Before entering upon the duties of office, the commissioner shall take the oath required of state officials. The commissioner may appoint a deputy commissioner.

History: (6023, 53-27 1/2) 1919 c 444 s 1; 1921 c 78 s 1; 1923 c 261 s 1; 1929 c 387; 1951 c 713 s 4; 1961 c 113 s 1; 1961 c 128 s 1; 1969 c 1129 art 8 s 2; 1977 c 305 s 12; 1986 c 444

17.013 DELEGATIONS OF POWERS TO DEPUTY COMMISSIONER.

The commissioner of agriculture may designate the deputy commissioner of agriculture to act in the commissioner's stead as a member, with all the commissioner's rights and privileges therein, of any board, committee or commission that the commissioner is made a member of by law. The designation shall be filed with secretary of state.

History: 1957 c 267 s 1; 1961 c 113 s 1; 1986 c 444

17.02 [Repealed, 1961 c 128 s 20]**17.03 POWERS AND DUTIES OF COMMISSIONER.**

Subdivision 1. Development of agricultural industries. The commissioner shall encourage and promote the development of agricultural industries, investigate marketing conditions affecting the marketing of farm products, and assist farmers, producers, and consumers in the organization and management of cooperative enterprises and the cooperative marketing of farm products; advise and assist in the location and establishment of local markets when the commissioner determines that the public necessity or the welfare of the community requires such markets, if satisfied that such markets will be successfully operated by a cooperative company or municipality. It shall be the duty of the department of agriculture and the department of agriculture of the University of Minnesota to cooperate in all ways that may be beneficial to the agricultural interests of the state. It is intended that police and organizational powers in reference to agriculture shall be exercised by the state department of agriculture and that the department of agriculture of the University of Minnesota shall retain its present powers and duties relating to obtaining and disseminating agricultural information and conducting agricultural research, and shall retain custody of scientific collections.

Subd. 2. Statistics and information. The commissioner may collect, compile, and supply statistics and information in regard to the agricultural products of the state and agricultural industries and, to attain this result, may cause a farm census at least once in two years, and may do so annually if deemed advisable.

Subd. 3. Cooperation with federal agencies. The commissioner shall cooperate with the government of the United States, with financial agencies created to assist in the development of the agricultural resources of this state, and so far as practicable may use the facilities provided by the existing state departments and the various state and local organizations. This subdivision is intended to relate to every function and duty which devolves upon the commissioner.

Subd. 4. Publication of information. The commissioner is authorized to publish, from time to time, such marketing or other information as may be deemed necessary to the welfare of agriculture, and to that end may investigate marketing or other conditions relating to agriculture in this and in other states, and to make these investigations public in such manner as shall in the commissioner's judgment be most effective.

Subd. 5. [Repealed, 1987 c 312 art 1 s 25; 1987 c 396 art 10 s 7]

Subd. 6. Cooperation with minnesota trade division. The commissioner of agriculture, the commissioner of trade and economic development, and the director of the

Minnesota trade division shall cooperate with each other to promote the beneficial agricultural interests of the state. The commissioner of trade and economic development and the director of the Minnesota trade division have primary responsibility for promoting state agricultural interests to international markets. The commissioner of trade and economic development and the director of the Minnesota trade division are also responsible for the promotion of national trade programs related to international marketing. The commissioner of agriculture has primary responsibility for promoting the agriculture interests of producers, promoting state agricultural markets, and promoting agricultural interests of the state in cooperative production and marketing efforts with other states and the United States Department of Agriculture. The commissioner of agriculture is also responsible for promoting the national marketing of state agricultural products.

Subd. 7. Agricultural diversification. The commissioner shall establish a program of agricultural diversification. The commissioner must assist the horticultural industry, help producers diversify farming operations, and coordinate state agency efforts regarding agricultural diversification, after consulting with farm groups, the University of Minnesota, and applicable institutions of higher learning. The commissioner shall report to the governor and legislature annually on activities and actions that should be taken in these matters.

Subd. 8. Cooperation with Minnesota trade office. The commissioner of agriculture, the commissioner of trade and economic development, and the director of the Minnesota trade office shall cooperate with each other to promote the beneficial agricultural interests of the state. The commissioner of trade and economic development and the director of the Minnesota trade office have primary responsibility for promoting state agricultural interests to international markets. The commissioner of agriculture has primary responsibility for promoting the agricultural interests of producers, promoting state agricultural markets, and promoting agricultural interests of the state in cooperative production and marketing efforts with other states and the United States Department of Agriculture.

History: (6024,6027) 1919 c 444 s 2,6; 1921 c 78 s 2,5; 1923 c 261 s 2,5; 1945 c 27 s 1; 1961 c 113 s 1; 1975 c 319 s 1; 1975 c 339 s 1; 1984 c 654 art 2 s 66; 1986 c 444; 1987 c 312 art 1 s 11; 1987 c 396 art 8 s 1; art 10 s 1

17.031 [Repealed, 1983 c 300 s 28]

17.032 [Repealed, 1983 c 300 s 28]

17.037 ENFORCEMENT OF LAWS, GENERALLY; COMMISSIONERS POWERS AND DUTIES.

Subdivision 1. Actions commenced; forfeiture of license; annulment of corporate existence. The commissioner is authorized, if upon investigation the commissioner is satisfied that the laws of the state, relative to any laws placed within the commissioner's jurisdiction, have been violated, to cause to be instituted, in the commissioner's own name as commissioner or in the name of the state, actions in the proper court, to secure punishment of the guilty party; and, if the party complained against is a corporation, to secure the cancellation of its authority and the annulment of its corporate existence, if a domestic corporation; or, if a foreign corporation, the forfeiture of its license to do business in this state.

Subd. 2. Reports to prosecuting officers. If, after an investigation, it appears to the commissioner that the laws of this state have been violated in any respect, the commissioner shall present all available information bearing upon such apparent violation to the proper law enforcing or prosecuting officer of the state or of the United States.

Subd. 3. Food manufacturer, processor, or distributor; licensing, preemption by state. When a food manufacturer, processor, or distributor is licensed by the commissioner of agriculture, the food manufacturer, processor or distributor is exempt from the licensing requirements of any municipal corporation or subdivision of state government, except for licensing requirements which may be imposed by the municipal corpo-

ration or subdivision of state government in which the manufacturer, processor, or distributor locates a plant. All delivery equipment used by such a food manufacturer, processor or distributor is included within the meaning of this section, whether owned or operated, independently contracted, or contracted with a common carrier approved by the commissioner of agriculture. This delivery equipment is exempt from licensing by any municipal corporation or subdivision of state government except for those requirements which may be imposed by the municipal corporation or subdivision of state government in which the equipment is principally located. Delivery equipment approved by the commissioner of agriculture shall carry, at all times, a certificate of approval for the purposes for which the equipment is utilized. Nothing in this section is intended to permit the enactment of an ordinance regulating an activity where the state has pre-empted the field.

History: (6025,6244) 1919 c 444 s 3; Ex1919 c 47 s 4; 1921 c 78 s 3; 1923 c 261 s 3; 1967 c 756 s 1; 1986 c 444

17.038 STATISTICAL SERVICES ACCOUNT.

The statistical services account is established in the state treasury. All payments for statistical services performed by the agricultural statistics division of the department of agriculture must be deposited in the state treasury and credited to the statistical services account. The money in the account is appropriated to the commissioner of agriculture to administer the programs of the agricultural statistics division.

History: 1Sp1985 c 10 s 42

17.039 ETHICAL GUIDELINES FOR FARM ADVOCATES.

The commissioner of agriculture shall establish not later than August 1, 1986, ethical guidelines for farm advocates who perform the duties of an advocate. The ethical guidelines must be part of the contract with each advocate.

History: 1986 c 398 art 22 s 1

17.04 ENFORCEMENT OF FOOD LAWS.

The commissioner shall cause to be enforced all the provisions of all laws designed to prevent fraud and deception in the manufacture and sale of food and the several ingredients thereof, and shall have authority to take all proper educational measures to foster and promote the manufacture and sale of pure food products.

History: (3793) 1921 c 495 s 6; 1961 c 128 s 2

17.042 ATTORNEY GENERAL TO ADVISE COMMISSIONER.

The attorney general is hereby required to assign a deputy to act as adviser for the commissioner and to institute and maintain the actions herein provided for, when sufficient evidence is available to warrant the institution of such proceedings.

History: (6026) 1919 c 444 s 4; 1921 c 78 s 4; 1923 c 261 s 4

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, rules 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 pro-

grams pursuant to the Federal Meat Inspection Act or the Federal Poultry Products Inspection Act.

History: 1973 c 745 s 1; 1985 c 248 s 70

17.05 [Repealed, 1955 c 92 s 3]

17.06 EXPENSES.

The expenses of the commissioner and subordinates necessarily and actually incurred in the discharge of their official duties shall be paid in addition to salary, upon itemized vouchers approved by the commissioner or the deputy commissioner.

History: (3795) 1919 c 316 s 2; 1921 c 520 s 2; 1986 c 444

17.07 APPROVAL OF EXPENDITURES.

No expenditure of money for any purpose shall be made from any state appropriation to any agricultural, horticultural, florist, dairy farmer's crop improvement, poultry, livestock, or livestock breeders' association, society, or corporation, or to any other association, society, or corporation of a similar nature not a part of or connected with the state government, except upon the written approval of the commissioner. The association or society shall reimburse the commissioner of agriculture for all expenses of the commissioner incurred in examining the records and accounts of such association or society. This section shall not apply to the state agricultural society or to county agricultural associations or other societies or associations whose books and records are required by law to be audited by any state official as a prerequisite to such payment.

History: (53-27) 1925 c 426 art 7 s 2; 1977 c 121 s 1; 1986 c 444

17.08 [Repealed, 1961 c 128 s 20]

17.09 [Renumbered 17.03, subd 4]

17.10 BIENNIAL REPORTS.

The commissioner shall, biennially, on or before November 15 in each even-numbered year, submit to the governor and the legislature a report of the department, with such recommendations and suggestions as the interests of agriculture and foods and marketing conditions require, and shall report, on or before November 15 of each even-numbered year, concerning official acts, showing official receipts and disbursements, and may issue public bulletins of information from time to time.

History: (6028) 1919 c 444 s 8; 1921 c 78 s 7; 1923 c 261 s 6; 1974 c 406 s 58; 1986 c 444

17.101 PROMOTIONAL ACTIVITIES.

Subdivision 1. **Departmental duties.** For the purposes of expanding, improving, and developing the markets for products of Minnesota agriculture, the commissioner shall encourage and promote the marketing of these products by means of:

- (a) advertising Minnesota agricultural products;
- (b) assisting state agricultural commodity organizations;
- (c) developing methods to increase processing and marketing of agricultural commodities including commodities not being produced in Minnesota on a commercial scale, but which may have economic potential in national and international markets;
- (d) investigating and identifying new marketing technology and methods to enhance the competitive position of Minnesota agricultural products;
- (e) evaluating livestock marketing opportunities;
- (f) assessing and developing national and international markets for Minnesota agricultural products;
- (g) studying the conversion of raw agricultural products to manufactured products including ethanol;

(h) hosting the visits of foreign trade teams to Minnesota and defraying the teams' expenses;

(i) assisting Minnesota agricultural businesses desiring to sell their products; and

(j) other activities the commissioner deems appropriate to promote Minnesota agricultural products, provided that the activities do not duplicate programs or services provided by the Minnesota trade division or the Minnesota world trade center corporation.

Subd. 2. Agricultural development grants. In order to carry out the duties in subdivision 1, the commissioner, in addition to whatever other resources the department may commit, shall make grants and enter into contracts to fulfill the obligations of subdivision 1. The commissioner may contract with, among others, agricultural commodity organizations and agriculture related businesses to fulfill the duties. The commissioner shall make permanent or emergency rules for the administration of these grants and contracts. The rules shall specify at a minimum:

(a) eligibility criteria;

(b) application procedures;

(c) provisions for application review and project approval;

(d) provisions for program monitoring and review for all approved grants and contracts; and

(e) other provisions the commissioner finds necessary.

Contracts entered into by the commissioner pursuant to this subdivision shall not exceed 75 percent of the cost of the project supported by the commissioner's grant. In any biennium, no organization shall receive more than \$70,000 in grants from the commissioner.

Subd. 3. Audits. The books, records, documents, and accounting procedures and practices of any organization receiving a grant from the commissioner under the provisions of subdivision 2 shall be subject to examination by the department. The commissioner may prescribe uniform methods of accounting to be used by grant recipients.

Subd. 4. Advisory group. The commissioner may establish an ad hoc advisory group to assist in evaluating grant requests made pursuant to subdivision 2.

History: 1963 c 486 s 1; 1983 c 293 s 29; 1984 c 640 s 32; 1986 c 444; 1987 c 312 art 1 s 12; 1987 c 396 art 10 s 2

17.1015 PROMOTIONAL EXPENDITURES.

In order to accomplish the purposes of section 17.101, the commissioner may participate jointly with private persons in appropriate programs and projects and may enter into contracts to carry out those programs and projects. The contracts may not include the acquisition of land or buildings and are not subject to the provisions of chapter 16 relating to competitive bidding.

The commissioner may spend money appropriated for the purposes of section 17.101, and expenditures made pursuant to section 17.101 for food, lodging, or travel are not governed by the travel rules of the commissioner of employee relations.

History: 1983 c 300 s 1

17.102 MINNESOTA GROWN LABEL.

Subdivision 1. Establishment and use of label. (a) The commissioner shall establish a "Minnesota grown" logo or labeling statement for use in identifying agricultural products that are grown, processed, or manufactured in this state. The commissioner may develop labeling statements that apply to specific marketing or promotional needs. One version of a labeling statement must identify food products certified as organically grown in this state. The Minnesota grown logo or labeling statement may be used on raw agricultural products only if 80 percent or more of the agricultural product is produced in this state.

(b) The Minnesota grown logo or labeling statement may not be used without a

license from the commissioner except that wholesalers and retailers may use the Minnesota grown logo and labeling statement for displaying and advertising products that qualify for use of the Minnesota grown logo or labeling statement.

Subd. 2. **Label does not replace other requirements.** The logo or labeling statement does not supersede or replace any federal label or grade standard that is required by law.

Subd. 3. **License.** A person may not use the Minnesota grown logo or labeling without an annual license from the commissioner. The commissioner shall issue licenses for a fee of \$5. The commissioner shall charge a late fee of \$10 for renewal of a license that has expired.

Subd. 4. **Minnesota grown account.** The Minnesota grown account is established as an account in the state treasury. License fee receipts and penalties collected under this section must be deposited in the state treasury and credited to the Minnesota grown account. The money in the account is continuously appropriated to the commissioner to implement and enforce this section and to promote the Minnesota grown logo and labeling.

Subd. 5. **Penalty.** A person who is required to have a license and uses the Minnesota grown logo or labeling without a license after being notified by the commissioner that a license is required is subject to a civil penalty up to \$1,000.

Subd. 6. **Rules.** The commissioner shall promulgate rules authorizing and licensing the use of the logo or labeling statement.

History: 1979 c 36 s 1; 1987 c 396 art 6 s 1; 1988 c 688 art 4 s 1

- 17.103 [Renumbered 116J.9671]
 17.104 [Renumbered 116J.9672]
 17.105 [Renumbered 116J.9673]
 17.106 [Repealed, 1984 c 654 art 2 s 155]
 17.11 [Repealed, 1955 c 92 s 3]

SUSTAINABLE AGRICULTURE

17.114 SUSTAINABLE AGRICULTURE.

Subdivision 1. **Purpose.** To assure the viability of agriculture in this state, the commissioner shall investigate, demonstrate, report on, and make recommendations on the current and future sustainability of agriculture in this state. Sustainable agriculture has the meaning given to it in Laws 1987, chapter 396, article 12, section 6.

Subd. 2. **Definitions.** For purposes of this section, the following definitions apply:

(a) "Sustainable agriculture" represents the best aspects of traditional and modern agriculture by using a fundamental understanding of nature as well as the latest scientific advances to create integrated, self-reliant, resource conserving practices that enhance the enrichment of the environment and provide short- and long-term productive and economical agriculture.

(b) "Integrated pest management" means use of a combination of approaches, incorporating the judicious application of ecological principles, management techniques, cultural and biological controls, and chemical methods, to keep pests below levels where they do economic damage.

Subd. 3. **Duties.** (a) The commissioner shall:

(1) establish a clearinghouse and provide information, appropriate educational opportunities and other assistance to individuals, producers, and groups about sustainable agricultural techniques, practices, and opportunities;

(2) survey producers and support services and organizations to determine information and research needs in the area of sustainable agricultural practices;

(3) demonstrate the on-farm applicability of sustainable agriculture practices to conditions in this state;

(4) coordinate the efforts of state agencies regarding activities relating to sustainable agriculture;

(5) direct the programs of the department so as to work toward the sustainability of agriculture in this state;

(6) inform agencies of how state or federal programs could utilize and support sustainable agriculture practices;

(7) work closely with farmers, the University of Minnesota, and other appropriate organizations to identify opportunities and needs as well as assure coordination and avoid duplication of state agency efforts regarding research, teaching, and extension work relating to sustainable agriculture; and

(8) report to the legislature every odd-numbered year.

(b) The report under paragraph (a), clause (8), must include:

(1) the presentation and analysis of findings regarding the current status and trends regarding the economic condition of producers; the status of soil and water resources utilized by production agriculture; the magnitude of off-farm inputs used; and the amount of nonrenewable resources used by Minnesota farmers;

(2) a description of current state or federal programs directed toward sustainable agriculture including significant results and experiences of those programs;

(3) a description of specific actions the department of agriculture is taking in the area of sustainable agriculture;

(4) a description of current and future research needs at all levels in the area of sustainable agriculture; and

(5) suggestions for changes in existing programs or policies or enactment of new programs or policies that will affect farm profitability, maintain soil and water quality, reduce input costs, or lessen dependence upon nonrenewable resources.

Subd. 4. Integrated pest management. (a) The state shall promote and facilitate the use of integrated pest management through education, technical or financial assistance, information and research.

(b) The commissioner shall coordinate the development of a state approach to the promotion and use of integrated pest management, which shall include delineation of the responsibilities of the state, public post-secondary institutions, Minnesota extension service, local units of government, and the private sector; establishment of information exchange and integration; procedures for identifying research needs and reviewing and preparing informational materials; procedures for factoring integrated pest management into state laws, rules, and uses of pesticides; and identification of barriers to adoption.

(c) The commissioner shall report to the governor and legislature by November 15, 1990, and on a biennial basis thereafter.

History: 1989 c 326 art 2 s 2

17.115 SHARED SAVINGS LOAN PROGRAM.

Subdivision 1. Establishment. The commissioner shall establish a shared savings loan program to provide loans that enable farmers to adopt best management practices that emphasize sufficiency and self-sufficiency in agricultural inputs, including energy efficiency, reduction of petroleum and chemical inputs, and increasing the energy self-sufficiency of agricultural producers.

Subd. 2. Loan criteria. (a) The shared savings loan program must provide loans for purchase of new or used machinery, installation of equipment, and projects that reduce or make more efficient farm energy use. Eligible loan uses do not include seed, fertilizer, or fuel.

(b) Loans may not exceed \$15,000 per individual applying for a loan and may not exceed \$75,000 for loans to five or more individuals on joint projects. The loan repayment period may be up to seven years as determined by project cost and energy savings. The interest on the loans is six percent.

(c) Loans may only be made to residents of this state engaged in farming.

Subd. 3. **Awarding of loans.** (a) Applications for loans must be made to the commissioner on forms prescribed by the commissioner.

(b) The applications must be reviewed, ranked, and recommended by a loan review panel appointed by the commissioner. The loan review panel shall consist of two lenders with agricultural experience, two resident farmers of the state using sustainable agriculture methods, a farm management specialist, a representative from a post-secondary education institution, and a chair from the department.

(c) The loan review panel shall rank applications according to the following criteria:

(1) realize savings to the cost of agricultural production and project savings to repay the cost of the loan;

(2) reduce or make more efficient use of energy; and

(3) reduce production costs.

(d) A loan application must show that the loan can be repaid by the applicant.

(e) The commissioner must consider the recommendations of the loan review panel and may make loans for eligible projects. Priority must be given based on the amount of savings realized by adopting the practice implemented by the loan.

Subd. 4. **Administration; information dissemination.** The amount in the revolving loan account is appropriated to the commissioner to make loans under this section and administer the loan program. The interest on the money in the revolving loan account and the interest on loans repaid to the state may be spent by the commissioner for administrative expenses. The commissioner shall collect and disseminate information relating to projects for which loans are given under this section.

History: 1986 c 444; 1988 c 688 art 15 s 1

17.116 SUSTAINABLE AGRICULTURE DEMONSTRATION GRANTS.

Subdivision 1. **Establishment.** The commissioner of agriculture shall establish a grant program for sustainable agriculture methods that demonstrates best management practices, including farm input reduction, farm energy efficiency, or usable on-farm energy production. The commissioner shall use the program to demonstrate and publicize the energy efficiency, environmental benefit, and profitability of sustainable agriculture techniques. The grants must fund demonstrations on farms of external input reduction techniques or farm scale energy production methods consistent with the program objectives.

Subd. 2. **Eligibility.** (a) Grants may only be made to farmers, educational institutions, or nonprofit organizations residing or located in the state for demonstrations on farms in the state.

(b) Grants may only be made for projects that show:

(1) the ability to maximize direct or indirect energy savings or production;

(2) a positive effect or reduced adverse effect on the environment; and

(3) profitability for the individual farm.

Subd. 3. **Awarding of grants.** (a) Applications for grants must be made to the commissioner on forms prescribed by the commissioner.

(b) The applications must be reviewed, ranked, and recommended by a technical review panel appointed by the commissioner. The technical review panel shall consist of a soil scientist, an agronomist, a representative from a post-secondary educational institution, two resident farmers of the state using sustainable agriculture methods, and a chair from the department.

(c) The technical review panel shall rank applications according to the following criteria:

(1) direct or indirect energy savings or production;

(2) environmental benefit;

- (3) farm profitability;
- (4) the number of farms able to apply the techniques or the technology proposed;
- (5) the effectiveness of the project as a demonstration;
- (6) the immediate transferability of the project to farms; and
- (7) the ability of the project to accomplish its goals.

(d) The commissioner shall consider the recommendations of the technical review panel and may award grants for eligible projects. Priority must be given to applicants who are farmers or groups of farmers.

(e) Grants for eligible projects may not exceed \$25,000 unless the portion above \$25,000 is matched on an equal basis by the applicant's cash or in-kind land use contribution. Grant funding of projects may not exceed \$50,000 under this section, but applicants may utilize other funding sources. A portion of each grant must be targeted for public information activities of the project.

(f) A project may continue for up to three years. Multiyear projects must be reevaluated by the technical review panel and the commissioner before second or third year funding is approved. A project is limited to one grant for its funding.

(g) Only one grant under this section may be made per grantee.

History: 1986 c 444; 1988 c 688 art 15 s 2

17.12 [Repealed, 1955 c 92 s 3]

17.13 [Repealed, 1955 c 92 s 3]

FARM SOLID WASTE DISPOSAL

17.135 FARM DISPOSAL OF SOLID WASTE.

A permit is not required from a state agency, except under sections 88.16, 88.17, and 88.22 for a person who owns or operates land used for farming that buries, or burns and buries, solid waste generated from the person's household or as part of the person's farming operation if the burying is done in a nuisance free, pollution free, and aesthetic manner on the land used for farming. This exception does not apply if regularly scheduled pickup of solid waste is reasonably available at the person's farm, as determined by resolution of the county board of the county where the person's farm is located.

History: 1989 c 131 s 2

MISCELLANEOUS REGULATORY LAWS

DISCRIMINATION IN THE PURCHASE

OF FARM PRODUCTS

17.14 DISCRIMINATION IN THE PURCHASE OF FARM PRODUCTS; DEFINITIONS.

Subdivision 1. **Terms.** Unless the language or context clearly indicates that a different meaning is intended, the terms defined in subdivisions 2, 3, and 4 shall, for the purposes of sections 17.15 to 17.19, and 17.037, subdivisions 1 and 2, be given the meanings subjoined to them.

Subd. 2. **Person.** "Person" means an individual, firm, copartnership, corporation, or association.

Subd. 3. **Farm products.** "Farm products" means butter, milk, cream, butterfat, cheese, other dairy products, honey, eggs, poultry, poultry products, perishable fresh fruits and vegetables, and all livestock and products of livestock such as wool, mohair, hides, and meats.

Subd. 4. **Bona fide competitor.** The term "bona fide competitor" means a duly licensed dealer in farm products maintaining a place of business in the same trade territory.

History: (6248-2,10522-4) 1927 c 252 s 2; 1935 c 100 s 1; 1937 c 420 s 1; 1990 c 530 s 1

17.15 DISCRIMINATION.

Any person engaged in the business of buying any farm products for manufacture or sale thereof, who shall discriminate between different sections, localities, communities, or cities, or between persons in the same community, in this state, by purchasing any farm products at a higher price or rate in one locality or from one person than is paid for farm products of the same kind, quality, and grade by such person in another section, locality, community, or city, or than is paid to another person of the same community, after making due allowance for the difference, if any, in the reasonable cost of transportation from the locality of purchase to the locality of manufacture or sale, or who shall fail to deduct reasonable transportation costs from the purchase price paid, or who shall fail to deduct the reasonable costs of hauling when such products are gathered by wagon or truck, or who shall pay or offer to pay in trade or in exchange for goods, wares or merchandise a higher price for such farm products than the cash price paid or offered to be paid for such farm products, shall be deemed guilty of unfair discrimination, which is hereby prohibited and declared to be unlawful. Wherever the transportation costs actually charged for hauling cream shall be two cents or more per pound for butterfat therein contained, and 15 cents per 100 pounds for transportation of whole milk, such charge shall be deemed a compliance with the terms of sections 17.14 to 17.19. It shall not be unfair discrimination for any person to pay, in any section, locality, community, or city, a price equal to that actually paid on the same day by any bona fide competitor in such place for farm products of the same kind and grade, provided such price is paid in good faith effort to meet such competition, and the burden of proving such facts shall be upon the defendant.

History: (6248-3) 1927 c 252 s 3; 1937 c 420 s 2; 1945 c 122 s 1; 1973 c 123 art 5 s 7

17.16 PRIMA FACIE EVIDENCE OF DISCRIMINATION.

Proof that any person has paid a higher price for any such farm products in one section, locality, community, or city than in another, after due allowance for the cost of transportation has been made, shall be prima facie evidence of a violation of sections 17.14 to 17.19.

History: (6248-4) 1927 c 252 s 4; 1973 c 123 art 5 s 7

17.17 COMPLAINTS; INVESTIGATIONS; PROSECUTIONS; FORFEITURES; INJUNCTIONS.

If complaint be made to the commissioner that any person is guilty of unfair discrimination defined by section 17.15, the commissioner shall investigate such complaint and may, upon personal initiative, investigate whether or not section 17.15 has been violated; and, in either event, for that purpose, may subpoena witnesses, administer oaths, take testimony, and if, in the commissioner's opinion, sufficient ground exists therefor, may prosecute an action, in the name of the state, in the proper court, to annul the act of incorporation or the existence of a corporation engaged in such business practice. If any corporation is adjudged by any court guilty of unfair discrimination as defined by section 17.15, such court may vacate the charter or revoke the authority of such corporation to do business in this state and may permanently enjoin it from transacting business in this state.

History: (6248-6) 1927 c 252 s 6; 1986 c 444

17.18 PROSECUTIONS INSTITUTED BY OTHERS.

The authority hereby extended to the commissioner shall be considered as duties only and shall not be construed to preclude any prosecuting officer or any party interested from instituting proceedings, civil or criminal, for the enforcement of any of the provisions of sections 17.14 to 17.19.

History: (6248-8) 1927 c 252 s 8

17.181 PENALTY.

Any person violating the provisions of section 17.15 shall, upon conviction thereof, be fined not less than \$50 for each offense; or in default of the payment of such fine by imprisonment in the county jail for not less than three months nor more than one year.

History: (6248-7) 1927 c 252 s 7

17.19 CONSTRUCTION.

Nothing in sections 17.14 to 17.19 shall be construed as repealing any other act or part of any other act, unless inconsistent herewith, but the remedies therein provided shall be cumulative to all other remedies provided by law.

History: (6248-9) 1927 c 252 s 9; 1937 c 420 s 3

- 17.20 [Repealed, 1949 c 559 s 20]
- 17.201 [Repealed, 1971 c 638 s 20]
- 17.202 [Repealed, 1971 c 638 s 20]
- 17.203 [Repealed, 1971 c 638 s 20]
- 17.204 [Repealed, 1971 c 638 s 20]
- 17.205 [Repealed, 1971 c 638 s 20]
- 17.206 [Repealed, 1971 c 638 s 20]
- 17.207 [Repealed, 1971 c 638 s 20]
- 17.208 [Repealed, 1971 c 638 s 20]
- 17.209 [Repealed, 1971 c 638 s 20]
- 17.21 [Repealed, 1949 c 559 s 20]
- 17.211 [Repealed, 1971 c 638 s 20]
- 17.212 [Repealed, 1971 c 638 s 20]
- 17.213 [Repealed, 1971 c 638 s 20]
- 17.214 [Repealed, 1971 c 638 s 20]
- 17.215 [Repealed, 1971 c 638 s 20]
- 17.216 [Repealed, 1971 c 638 s 20]
- 17.217 [Repealed, 1971 c 638 s 20]
- 17.218 [Repealed, 1971 c 638 s 20]
- 17.219 [Repealed, 1971 c 638 s 20]
- 17.22 [Repealed, 1949 c 559 s 20]

WILDFLOWERS**17.23 CONSERVATION OF CERTAIN WILDFLOWERS.**

Subdivision 1. Prohibition. No person within the state shall buy, sell, offer or expose for sale, the state flower (*Cypripedium reginae*), or any species of lady slipper (*Cypripedieae*), or any member of the orchid family, trillium of any species, lotus (*Nelumbolutea*), gentian (*Gentiana*), arbutus (*Epigaea repens*), or any species of lilies (*Lilium*), or any thereof, dug, cut, plucked, pulled, or gathered in any manner from any public land or from the land of any private owner without the written consent of such owner or other occupant of such land, and then only upon written permission of the commissioner, and for scientific and herbarium purposes; except, that any persons may upon their own lands cultivate for sale and sell these flowers by registering the purpose to do the same with the commissioner.

Subd. 2. Prosecution. The commissioner shall administer this section, and when, by investigation, complaint or otherwise, it shall be made to appear that any person has violated any of the provisions of subdivision 1, shall assemble the facts and transmit the same to the attorney general, or may act through the county attorney of the county

in which the violation was committed, whose duty it shall be to forthwith institute proceedings and prosecute the same against any person or persons charged with such violation. It is hereby made the duty of the county attorney to prosecute any and all cases submitted by the commissioner or the attorney general.

Subd. 3. Punishment. Any person who violates any of the provisions of subdivision 1 shall be guilty of a misdemeanor; and, upon conviction, shall be fined not less than \$10 and the costs of such prosecution nor more than \$50 and the costs of such prosecution, or in default of payment thereof shall be imprisoned in the county jail for not less than ten nor more than 30 days for each and every such conviction. All fines and money thus collected shall be deposited in the state treasury.

History: (10522-1,10522-2,10522-3) 1925 c 409 s 1-3; 1935 c 100 s 1; 1986 c 444

17.24 Subdivision 1. [Renumbered 17.037]

Subd. 2. [Renumbered 17.037]

Subd. 3. [Repealed, 1961 c 128 s 20]

17.25 [Renumbered 17.042]

17.26 [Repealed, 1955 c 92 s 3]

17.27 [Repealed, 1955 c 92 s 3]

17.28 [Renumbered 308.92]

17.29 Subdivision 1. [Renumbered 17.181]

Subd. 2. [Repealed, 1949 c 559 s 20]

Subd. 3. [Renumbered 30.59]

Subd. 4. [Renumbered 17.219]

17.30 [Renumbered 30.55]

17.31 [Renumbered 30.56]

17.32 [Renumbered 30.57]

17.33 [Renumbered 30.58]

17.34 [Repealed, Ex1959 c 73 s 1]

DOMESTIC FUR-BEARING ANIMALS

17.35 [Repealed, 1985 c 44 s 5]

17.351 DEFINITIONS.

Subdivision 1. **Applicability.** The definitions in this section apply to sections 17.352 to 17.354.

Subd. 2. **Commissioner.** "Commissioner" means the commissioner of agriculture.

Subd. 3. **Fur-bearing animal.** "Fur-bearing animal" means a fox, mink, fitch, chinchilla, karakul, marten, nutria, or fisher that is the second or later generation raised in captivity.

Subd. 4. **Fur farmer.** "Fur farmer" means a person engaged in breeding, raising, producing, and marketing fur-bearing animals or the products of fur-bearing animals.

History: 1985 c 44 s 1

17.352 AGRICULTURAL PRODUCTS AND PURSUITS.

Fur-bearing animals are domestic animals and products of fur-bearing animals are agricultural products. A fur farmer is engaged in an agricultural pursuit.

History: 1985 c 44 s 2

17.353 FUR FARMER REGISTRATION.

Subdivision 1. **Registration system.** The commissioner shall establish a registration system for fur farmers. The registration system shall be designed to maintain informa-

tion required by the commissioner, United States Department of Agriculture, and other agencies.

Subd. 2. Registration. A fur farmer may register with the commissioner by submitting a completed registration form and a fee of \$10 to the commissioner by December 31. The registration is valid for a calendar year. The registration form must state the name of the applicant, the location of the fur farming activity, the species of fur-bearing animals on the fur farm, and other information required by the commissioner.

Subd. 3. Tags for transportation and sale. The commissioner shall, if requested, furnish registered fur farmers tags, without a fee, for the transport and sale of fur-bearing animals and their products. A fur farmer transporting or selling pelts of fur-bearing animals may attach the tag to a package containing pelts.

Subd. 4. Annual reports of pelts sold. A registered fur farmer must file a verified report of the number of pelts of each species of fur-bearing animal sold during the preceding calendar year. The report must be filed with the commissioner by December 31.

History: 1985 c 44 s 3

17.354 APPLICATION.

Sections 17.351 to 17.353 do not affect provisions of law relating to wild animals.

History: 1985 c 44 s 4

17.36 [Renumbered 31.73]

17.37 [Repealed, 1961 c 128 s 20]

CHEMICALLY TREATED GRAIN

17.41 GRAIN DEFINED.

Unless the language or context clearly indicates that a different meaning is intended, the term "grain" shall mean whole seeds or entire grains or any broken parts thereof, of field peas, field beans, soybeans or entire legumes, or flax, wheat, rye, barley, oats, corn, sorghum, spelt or emmer, vetch, buckwheat, or any other cereals.

History: 1955 c 415 s 1

17.42 CHEMICALLY TREATED GRAIN, SALE.

Subdivision 1. It shall be unlawful for any person, firm, corporation, or association to sell, or offer for sale, or expose for sale, or to purchase for the purpose of resale, any grain for human, animal, or poultry consumption, if such grain contains toxic chemicals in sufficient quantities to be harmful to humans, animals, or poultry, providing such person, firm, corporation or association knew or upon the exercise of reasonable diligence could have known of the presence in the grains in question of toxic chemicals in sufficient quantities to be harmful to humans, animals or poultry.

Subd. 2. It shall also be unlawful for any person knowingly to sell, or offer for sale, or expose for sale any grain for human, animal or poultry consumption, containing toxic chemicals in any quantity, without informing the purchaser, in writing, of such fact.

History: 1955 c 415 s 2

17.43 VIOLATIONS; PENALTIES.

Any person violating section 17.42, shall be guilty of a gross misdemeanor and shall be fined not less than \$250 or be imprisoned for not less than 60 days, or both.

History: 1955 c 415 s 3

17.44 SEIZURE OF CHEMICALLY TREATED GRAIN; RECONDITIONING.

Subdivision 1. In the event grain is sold or offered for sale for the purpose of

human, animal, or poultry consumption, which contains toxic chemicals in sufficient quantities to be harmful to humans, animals, or poultry, the district court of the judicial district in which the grain is found may, upon complaint and showing made by the commissioner of agriculture, order said grain to be seized. In the event the court finds that the grain is subject to seizure, it shall order the grain to be sold or otherwise disposed of for purposes other than human, animal, or poultry consumption. To this end the court may require the grain to be specially labeled, dyed, or otherwise altered in appearance. Upon application of the owner or any other person interested in the grain, the court shall permit such person at the person's own expense to recondition said grain and if, after reconditioning, it appears to the satisfaction of the court that the toxic chemicals have been removed so that the grain is no longer harmful to humans, animals, or poultry, the court then shall release the grain.

Subd. 2. The court at any time after seizure and up to a reasonable time before trial shall allow any interested party, or the party's attorney or agent, to obtain a representative sample of the grain seized and a true copy of the analysis on which the seizure is based.

History: 1955 c 415 s 4; 1961 c 113 s 1; 1986 c 444

EUROPEAN RABBITS

17.45 IMPORTATION OF EUROPEAN RABBIT FORBIDDEN.

Subdivision 1. It is unlawful for any individual, person, firm, partnership, or corporation to import into Minnesota the European rabbit, commonly known as the San Juan Hare, of *Cuniculus* species and the *Orystalbus-Cuniculus* Genus, without obtaining permission from the commissioner of agriculture.

Subd. 2. Any person violating this section is guilty of a misdemeanor.

History: 1957 c 486 s 1,2; 1961 c 113 s 1

FISH FARMS

17.49 AQUACULTURE PROGRAM AND PROMOTION.

Subdivision 1. **Program established.** The commissioner shall establish and promote a program for the commercial raising of fish in fish farms in consultation with an advisory committee consisting of the University of Minnesota, the commissioner of natural resources, the commissioner of agriculture, the commissioner of trade and economic development, the commissioner of the state planning agency, representatives of private fish raising industry, and the chairs of the environment and natural resources committees of the house of representatives and senate.

Subd. 2. **Coordination.** Aquaculture programs in the state must be coordinated through the commissioner of agriculture. The commissioner of agriculture shall direct the development of aquaculture in the state. Aquaculture research, projects, and demonstrations must be reported to the commissioner before state appropriations for the research, projects, and demonstrations are encumbered. The commissioner shall maintain a data base of aquaculture research, demonstrations, and other related information pertaining to aquaculture in the state.

Subd. 3. **Report.** The commissioner shall prepare an annual report on the amount of fish and aquaculture products consumed in the state, where the products were produced, the opportunities in the state for aquaculture development, and impediments to Minnesota development of aquaculture.

History: 1987 c 186 s 15; 1987 c 312 art 1 s 26 subd 2; 1987 c 318 s 1; 1989 c 350 art 4 s 1; 1990 c 502 s 1,2

17.491 AQUICULTURE IS AGRICULTURAL PURSUIT.

Aquiculture is an agricultural pursuit.

History: 1989 c 350 art 4 s 2

17.492 AQUICULTURE DEFINITION.

“Aquiculture” means to cultivate plants and animals in water for harvest, including hydroponics and raising fish in fish farms.

History: 1989 c 350 art 4 s 3

POLICY ON AGRICULTURAL COMMODITIES UTILIZATION**17.50 POLICY.**

The state must explore alternative uses for agricultural products to enable the state’s agricultural economy to reach its full potential. The state must promote and encourage cooperative efforts between public and private interests in conducting basic research and disseminating the results on agricultural commodity utilization.

History: 1987 c 396 art 8 s 2

COMMODITIES PROMOTION ACT**17.51 CITATION; AGRICULTURAL COMMODITIES PROMOTION ACT.**

Sections 17.51 to 17.69 may be cited as the agricultural commodities promotion act.

History: 1969 c 1021 s 1

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 research and promotion councils is deemed an appropriate means to accomplish such objectives. Sections 17.51 to 17.69 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.

History: 1969 c 1021 s 2; 1976 c 149 s 8,62 subd 2

17.53 DEFINITIONS.

Subdivision 1. **Scope of application.** As used in sections 17.51 to 17.69, the terms defined in this section shall have the following meanings.

Subd. 2. **Agricultural commodity.** “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.

Subd. 3. **Commercial channels.** “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. **Commissioner.** “Commissioner” means the commissioner of agriculture or a designee.

Subd. 5. **Cooperative.** “Cooperative” means a nonprofit association legally constituted under the laws of Minnesota or of another state of producers who have gathered together for purposes of bargaining for a price for marketing their commodity. This includes all cooperatives domiciled inside or outside of the state which buy commodities from Minnesota producers.

Subd. 6. **Council.** "Council" means a council created under the provisions of sections 17.51 to 17.69.

Subd. 7. **First handler.** "First handler" means a person, whether an owner, agent or other person, who initially places a commodity into commercial channels, or who is engaged in the processing of the commodity into food for human consumption in any form, except for potato flour or potato starch.

Subd. 8. **First purchaser.** "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 and regardless of whether the first purchaser is domiciled within the state or without. First purchaser does not mean the commodity credit corporation when a commodity is used as collateral for a federal nonrecourse loan unless the commissioner determines otherwise.

Subd. 9. **Marketing year.** "Marketing year" means a one-year period from July 1 through June 30, or any other one-year period determined by the promotion order of a specific council.

Subd. 10. **Participating producer.** "Participating producer" means a 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 council to qualify as a producer.

Subd. 11. **Person.** "Person" means an individual, corporation, association, cooperative or partnership.

Subd. 12. **Private processor.** "Private processor" means a privately owned commodity processor legally constituted under the laws of Minnesota for the purpose of buying or marketing the commodity and commodity products, whether the processor is domiciled within the state or without.

Subd. 13. **Producer.** "Producer" means any person who owns or operates an agricultural producing or growing facility for an agricultural commodity and shares in the profits and risk of loss from such operation, and who grows, raises, feeds or produces the agricultural commodity in Minnesota during the current or preceding marketing year.

Subd. 14. **Producer-processor.** "Producer-processor" means a producer who processes and markets the producer's own product. For the purpose of collecting the check-off fee, a producer-processor is the first purchaser.

Subd. 15. **Promotional order.** "Promotional order" means an order issued by the commissioner, with the advice and consent of a council and after a referendum pursuant to this chapter, which establishes a program for promotion, advertising, production, market research, and market development of the growing, processing, distributing, sale or handling of an agricultural commodity and provides for the collection of checkoff fees.

Subd. 16. **Qualified voter.** "Qualified voter" means a producer who would be subject to the payment of fees to finance the activities described in sections 17.51 to 17.69 and who shares directly in the profits and risk of loss from the agricultural operation which produces or grows the commodity.

Subd. 17. **Retailer.** "Retailer" means a person who sells directly to the consumer in small quantities or broken lots.

Subd. 18. **Sale.** "Sale" means any passing of title from the producer to the first purchaser. Sale includes any pledge, security interest or lien after harvest.

History: 1969 c 1021 s 3; 1976 c 149 s 9,62 subd 2; 1982 c 582 s 1; 1986 c 444

17.54 COUNCILS.

Subdivision 1. Creation. A commodity research and promotion council may be created for the producers of each agricultural commodity by filing with the commissioner a petition requesting that the producers of such commodity be subjected to the provisions of sections 17.51 to 17.69. The petition must be signed by 1,000 producers or 15 percent of the producers proposed to be covered by the promotion order, whichever is less. At least two producers shall certify under oath that the petition has 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 council and distribution of the council membership.

Subd. 3. Nominating committee. Within 30 days after the filing of the petition by the required number of producers of an agricultural commodity the commissioner shall appoint a nominating committee of at least five producers of that commodity who shall, within 60 days from the filing of the petition, nominate at least two producer candidates for each council 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 commodity is in a lesser area, in which event the commissioner shall define the area following county lines. Whenever possible, the areas represented by council members shall correspond to state crop reporting districts as defined by the Minnesota crop and livestock reporting service.

Subd. 4. Election. Upon receipt of the nominations the commissioner shall promptly arrange an election to be held at places designated by the commissioner reasonably convenient to all producers in the organized area and provide notice of the election to all of the media having a general circulation in the organized area. Ballots setting forth the names of the 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. General polling procedures shall be established by the commissioner by rule pursuant to chapter 14 to avoid voting by other than qualified producers, but the selection of specific polling places shall not be subject to chapter 14. An impartial committee appointed by the commissioner shall tabulate the votes, and the candidates receiving the most votes shall be declared elected to the first council.

After the first council for a commodity is elected, an election shall be held annually to elect members of the council. The election shall be held in the same manner as prescribed for the first council election except that the manner of choosing nominating committee members, the time of nominations and the time and place of elections shall be fixed by the commissioner. Mail balloting may be permitted by the commissioner.

Subd. 5. Terms. At the first meeting of the first council for each commodity the commissioner shall determine by lot one-third of the council members whose terms shall expire June 30 in the calendar year following the year of the first election, one-third of the council members whose terms shall expire June 30 in the second calendar year and the remaining council 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 council, the terms of council members in any one area shall not expire in the same year. All council members elected in succeeding elections shall serve three year terms and until their successors are elected and qualified. All terms shall expire on June 30 of the last year of the term unless another date is established by the commissioner for specific councils. In the event a council member ceases to have any of the qualifications herein established, that office shall be deemed vacant. An interim vacancy on the council shall be filled by the council for the remainder of the term vacated. The successor so appointed shall be a commodity producer residing in the same crop reporting district as the former member.

Subd. 6. **Organization.** The commissioner shall serve as a member of each council without vote. Each council shall elect from its own membership a chair, a vice-chair, a secretary, and other officers the council deems appropriate. An executive committee of no more than five members including the officers may also be elected. Terms of the officers shall expire on June 30 of each year; however, they may serve until their successors have been elected but not beyond July 15.

Subd. 7. **Meetings; quorum.** Subject to the requirements of sections 17.51 to 17.69, a council shall meet at times and places as it may determine or upon call of the chair or of any three members or one-third of the council, whichever is greater. A majority of the voting members of a council shall constitute a quorum for the transaction of all business in carrying out the duties of the council.

Subd. 8. **Existing councils.** Any council established pursuant to any act on or before July 1, 1982 may maintain the number and regional distribution of council members in effect at that time and council members elected under the provisions of any act in effect prior to July 1, 1982 may serve out their terms according to those provisions. Any promotional order in effect prior to July 1, 1982 shall remain in effect until the promotional order would terminate under the terms of the promotional order itself, or under the provisions of the legislation authorizing that promotional order, or until the promotional order is terminated pursuant to section 17.64, whichever occurs first. No referendum need be held by the commissioner to establish any promotion order in effect prior to July 1, 1982. No referendum need be held by the commissioner to bring any promotion order into early compliance with Laws 1982, chapter 582, sections 1 to 11 when the proposed changes in the promotion order are requested by the council members and approved by the commissioner.

Subd. 9. **Potato industry promotion.** For the purpose of the administration of sections 17.51 to 17.69 as they pertain to a Minnesota area potato research and promotion council established pursuant to Laws 1967, chapter 417, as amended, the state is divided into two areas. Area number one includes the counties of Kittson, Marshall, Polk, Pennington, Red Lake, Norman, Mahnomon, Clay, Wilkin, Roseau, Lake of the Woods, Beltrami, Clearwater, and Becker. Area number two includes the rest of the counties of the state. Sections 17.51 to 17.69 shall apply to any of the above areas of the state where the commissioner has determined that the area was organized prior to July 1, 1982, pursuant to section 30.464, subdivision 3, as amended through June 30, 1982.

Subd. 10. **Existing area potato councils.** For the purposes of sections 17.51 to 17.69, any area potato council established pursuant to section 30.465, prior to July 1, 1982 shall maintain the number and distribution of council members in effect at that time. Council members elected or appointed under the provisions of section 30.465 may serve out their terms. For the purposes of sections 17.51 to 17.69, the provisions of sections 30.462, 30.463, 30.467, 30.469 and 30.472 as amended through June 30, 1982, shall be considered to be the promotional order for an area potato council, and shall remain in effect as a promotional order until terminated or modified by referendum.

Subd. 11. **Membership and terms; area potato councils.** Notwithstanding subdivisions 3, 4, and 5, any area potato council which continues in existence pursuant to subdivision 10 shall include one voting member who is a private processor of potatoes and one voting member who represents potato wash plants. These two members shall be appointed by the governor for four-year terms coterminous with that of the governor.

Subd. 12. **Dairy industry promotion.** For the purpose of the administration of sections 17.51 to 17.69 as they pertain to the dairy research and promotion council established pursuant to Laws 1969, chapter 851, as amended, the vote in the name of a cooperative association of producers may be deemed the vote of all members of that cooperative association. The commissioner shall schedule and specify procedures for bloc voting by a cooperative. A ballot prepared by the council and the commissioner shall be sent by each cooperative to all member and nonmember producers with a return envelope addressed to the commissioner. The ballot shall indicate that the coop-

erative association intends to vote in favor of or in opposition to the question. In the case of members the ballot shall indicate the expiration date of the ballot and state that if the ballot is not returned by that date the ballot shall be considered to be in favor of the vote of the association. The cooperative shall return the completed bloc vote ballot to the commissioner. A cooperative association shall not be required to bloc vote its producers but in that event it shall inform each producer of its decision and provide each producer with an individual referendum ballot with a return envelope addressed to the commissioner.

Each private processor of dairy products and each cooperative shall file with the commissioner a list of producers who market the bulk of their production with that private processor or cooperative. The polling procedures established by the commissioner pursuant to subdivision 4 shall ensure that dairy producers marketing the bulk of their production with a private processor have the option to vote in any referendum held pursuant to Laws 1982, chapter 586, sections 1 to 11.

Subd. 13. Terms; dairy council. Notwithstanding subdivision 5, the term of office of members of any council established for the producers of cows' milk or products derived from cows' milk shall be as provided in this subdivision. The term of office shall be two years, with the terms of half the council members expiring June 30 in odd-numbered years, and the terms of the remaining council members expiring June 30 in even-numbered years.

History: 1969 c 1021 s 4; 1973 c 237 s 1; 1973 c 242 s 1; 1976 c 149 s 10,62 subd 2; 1982 c 424 s 130; 1982 c 582 s 2; 1986 c 318 s 1; 1986 c 444; 1990 c 417 s 1

NOTE: Subdivision 9, as amended by Laws 1990, chapter 417, section 1, relating to the removal of Hubbard and Ottertail counties from area one is effective July 1, 1991. See Laws 1990, chapter 417, section 2.

17.55 [Repealed, 1982 c 582 s 14]

17.56 COUNCIL TO FORMULATE AND SUBMIT PROMOTIONAL ORDER.

Subdivision 1. Formulation. Within 15 days after certification by the commissioner of its election the first council 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 consumption of the commodity it represents and establishing a checkoff fee to be paid by producers to finance the proposed activities.

Subd. 2. Hearings. The commissioner, after consultation with the council, shall hold public hearings on the proposed promotional order in areas and at times affording reasonable opportunities for producers to attend. These hearings shall not be subject to the administrative procedure act of chapter 14. After such hearings and after consultation with the council, the commissioner shall determine whether or not the promotional order shall be amended, modified or supplemented. If changes or additions of substance are made, commissioner shall hold public hearings on the amended or supplemented promotional order.

Subd. 3. Referendum. Following the hearings, the 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. Notice shall also be given to other media in each county affected. A complete copy of the promotional order shall be given to each county extension office in any county involved in the referendum to afford all producers of the commodity access to complete information about the promotional order and the referendum.

Subd. 4. Adoption. The promotional order shall become effective if approved by a majority of those voting.

Subd. 5. Failed referendum. If a referendum is conducted and a proposed promotional order is not approved, the commissioner shall not conduct another referendum on any promotional order for the same commodity until one year has elapsed.

History: 1969 c 1021 s 6; 1973 c 242 s 2; 1976 c 149 s 62 subd 2; 1982 c 424 s 130; 1982 c 582 s 3

17.57 ADDITIONAL POWERS AND DUTIES OF COUNCIL.

Subdivision 1. **Adoption of rules.** Each council shall at its regular meetings adopt rules consistent with sections 17.51 to 17.69 for the administration of the promotional order. These rules are not subject to the administrative procedure act of chapter 14.

Subd. 2. **Budget.** Each council shall prepare and submit to the commissioner on a date the commissioner determines an estimated budget for the operation of the promotional order.

Subd. 3. **Report.** Each council shall prepare an annual report on the programs pursuant to its promotional order for the previous operating year. The report shall be mailed to each county extension office in any county involved in the promotional order.

Subd. 4. **Collection of checkoff fees and data.** The promotion order shall provide a procedure for the collection of the checkoff fee by each council to finance promotional orders and for the collection of information and data which are necessary for the proper administration of orders.

Subd. 5. **Donations.** Each council 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 sections 17.51 to 17.69.

Subd. 6. **Right to sue and be sued.** Each council 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 checkoff fees authorized by the provisions of sections 17.51 to 17.69, to sue and be sued in the name of the council to hire attorneys as necessary and to do all other things necessary to the administration and implementation of sections 17.51 to 17.69.

Subd. 7. **Financial statement.** Each council shall make available an annual financial statement of the council to any producer upon request.

History: 1969 c 1021 s 7; 1976 c 149 s 62 subd 2; 1982 c 424 s 130; 1982 c 582 s 4; 1986 c 444

17.58 POWERS AND DUTIES OF COMMISSIONER.

Subdivision 1. **Contracts.** A council, with the approval of the commissioner, 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 sections 17.51 to 17.69.

Subd. 2. **Personnel.** The council, with the approval of the commissioner, shall appoint, employ, provide necessary bond, discharge, fix compensation for and prescribe the duties of the first chief administrative officer of any council established after July 1, 1982. The council, after consultation with the commissioner, shall appoint, employ, provide necessary bond, discharge, fix compensation for and provide duties of subsequent chief administrative officers. A council may employ other personnel as it deems necessary.

Subd. 3. **General powers.** In administering sections 17.51 to 17.69, the commissioner shall have such other powers as may be conferred by law not inconsistent with the provisions of sections 17.51 to 17.69. The commissioner is authorized to cooperate with any appropriate agency of any state for the purpose of carrying out the provisions of sections 17.51 to 17.69, and in securing uniformity of administration and enforcement.

Subd. 4. **Rules.** The organization, conduct of elections, referenda, and meetings of a council and the administration of a promotional order for any commodity shall be governed by rules promulgated by the commissioner pursuant to chapter 14.

Subd. 5. **Audits.** Each year the commissioner shall conduct a fiscal audit, and at least every three years the commissioner shall conduct a compliance audit of each council. A compliance audit is an audit to determine that a council has complied with the terms of sections 17.51 to 17.69, with all other applicable federal or state laws, and with the terms of any promotional orders established.

History: 1969 c 1021 s 8; 1976 c 149 s 62 subd 2; 1982 c 424 s 130; 1982 c 582 s 5; 1986 c 444

17.59 FEES TO DEFRAY EXPENSES.

Subdivision 1. **Checkoff fees.** For the purpose of providing funds to defray the necessary expenses incurred by the commissioner and the council in formulating, submitting to referendum, issuing, administering and enforcing a promotional order, the promotional order shall provide for checkoff fees in amounts sufficient to defray such expenses, and shall indicate the maximum checkoff rate which shall not exceed one percent of the market value of the year's production of participating producers. Any increase in the maximum checkoff 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. 1a. **Dairy industry checkoff rate.** (a) Notwithstanding subdivision 1, the Minnesota dairy research and promotion order, or any provision to the contrary in this chapter or rules adopted under this chapter, the checkoff rate applicable to the dairy research and promotion council must be equal to the maximum credit allowed under the Dairy Promotion and Research Order, adopted under the Dairy Production Stabilization Act of 1983, United States Code, title 7, sections 4501 to 4538, for producers participating in a qualified state or regional dairy product promotion or nutrition education program. The checkoff rate provided in this subdivision is effective and must be automatically adjusted without amendment to the Minnesota dairy research and promotion order.

(b) Subdivision 1 applies for the establishment of the checkoff rate applicable to the dairy research and promotion council if:

- (1) the Dairy Production Stabilization Act of 1983 is repealed;
- (2) the Dairy Promotion and Research Order is suspended or terminated, in which case subdivision 1 applies only during the period of suspension or termination; or
- (3) the federal credit for participation in a qualified state or regional dairy product or nutrition education program is eliminated.

Subd. 2. **Payment.** The commissioner shall establish the procedure for the timely payment of the checkoff fee by the producer to the council. The procedure shall be clearly outlined in the proposed promotional order. The procedure must be fair, reasonable and the checkoff fee shall be deducted by the first purchaser at the time of sale. The first purchaser shall submit to the council any checkoff fees so deducted once every 30 days in accordance with the commissioner's rules.

Subd. 3. **Financing referendums.** The commissioner shall require producers petitioning for a promotional order to deposit in advance an amount necessary to defray the expense of electing the first council, formulating an order, submitting it to referendum and issuing the order. Funds received for that purpose shall be deposited in the commodity research and promotion account. If the order is issued, the 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 checkoff fees.** Checkoff fees collected pursuant to sections 17.51 to 17.69 shall be deposited in a federally insured depository institution and shall be disbursed by the officers and employees approved by the council for the necessary expenses incurred in the administration of sections 17.51 to 17.69. Checkoff fees collected shall be used exclusively for the purpose collected and not to support or oppose a political party or a candidate for nomination or election to a public office.

Subd. 5. **Commodities research and promotion account.** All fees collected by the department under sections 17.51 to 17.69 and any other fees and income received by the department in the administration of these statutes shall be deposited in a separate account known as the commodity research and promotion account in the special revenue fund. These funds shall be appropriated to the department for the purpose of defraying the expenses of administering and enforcing the sections listed in this subdivision.

History: 1969 c 1021 s 9; 1976 c 149 s 62 subd 2; 1981 c 41 s 1-3; 1981 c 356 s 256; 1982 c 582 s 6-8; 1987 c 384 art 2 s 5; 1989 c 350 art 5 s 1

17.60 COMPENSATION AND EXPENSES.

Each member of a council, except the commissioner, shall be entitled to a reasonable per diem, not exceeding the same rate of compensation per day as is authorized for payment to members of advisory councils and committees pursuant to section 15.059, subdivision 3, while engaged in the performance of duties, and actual expenses incurred while attending council meetings or executive committee meetings. Payments to council members for other official business of the council require approval by the council.

History: 1969 c 1021 s 10; 1976 c 149 s 62 subd 2; 1982 c 582 s 9; 1986 c 444

17.601 [Repealed, 1982 c 582 s 14]

17.61 LEGAL COUNSEL.

The council may appoint an attorney who shall act for the council and the commissioner when required. The council shall fix the compensation and terms of employment of such attorney. The provisions of chapter 8 shall not apply to this attorney.

History: 1969 c 1021 s 11; 1976 c 149 s 62 subd 2

17.62 RECORDS OF THE COUNCIL.

All of the records of a council, except as otherwise provided in this section, shall be open to the public and shall be available for inspection by any person for any lawful purpose, provided, however, that the council shall be empowered to make reasonable rules concerning the inspection of the records, the time or place of inspection, or the manner in which the information shall be made available. Financial information pertaining to individual participating producers shall not be open to the public.

History: 1969 c 1021 s 12; 1976 c 149 s 62 subd 2; 1982 c 582 s 10

17.63 REFUND OF FEES.

Any producer, except a producer of potatoes in area number one, as listed in section 17.54, subdivision 9, may, by the use of forms to be provided by the commissioner and upon presentation of such proof as the commissioner requires, have the checkoff fee paid pursuant to sections 17.51 to 17.69 refunded, provided the checkoff fee was remitted on a timely basis. The request for refund must be received in the office of the commissioner within the time specified in the promotion order following the payment of the checkoff fee. In no event shall these requests for refund be accepted more often than 12 times per year. Refund shall be made by the commissioner and council within 30 days of the request for refund provided that the checkoff fee sought to be refunded has been received. Rules governing the refund of checkoff fees for all commodities shall be formulated by the commissioner, shall be fully outlined in the promotion order, and shall be available for the information of all producers concerned with the referendum.

History: 1969 c 1021 s 13; 1976 c 149 s 62 subd 2; 1982 c 582 s 11; 1986 c 444; 1990 c 477 s 1

17.64 TERMINATION OF THE ORDER.

Subdivision 1. By council. The council after consultation with the commissioner and by a majority vote shall suspend or terminate a promotional order whenever it finds, after a public hearing, that an order is contrary to or does not effectuate the purposes or provisions of sections 17.51 to 17.69, provided that the suspension or termination shall not become effective until the expiration of the current marketing year.

Subd. 2. By referendum. Upon petition of the same number of producers as required to initiate the promotional order, the commissioner shall within 60 days conduct a referendum to determine whether or not the promotional order shall be continued. The commissioner 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. The petition of producers shall include a statement certifying that the signatures

are those of qualified producers of the commodity involved. The commissioner shall not conduct a referendum for termination of a promotional order if a referendum for termination of the same promotional order has been conducted within the preceding year. A hearing for a termination of an order need not be held as provided in chapter 14.

History: 1969 c 1021 s 14; 1976 c 149 s 62 subd 2; 1982 c 424 s 130; 1982 c 582 s 12; 1986 c 444

17.65 [Repealed, 1982 c 582 s 14]

17.66 ASSOCIATION OF PRODUCERS NOT ILLEGAL.

No activity, including meetings, undertaken in pursuance of the provisions of sections 17.51 to 17.69 and intended to benefit the producers, handlers and processors of such agricultural commodity shall be deemed or considered illegal or in restraint of trade.

History: 1969 c 1021 s 16

17.67 PENALTY FOR VIOLATIONS.

Any person who violates any provision of sections 17.51 to 17.69 or any rule of the commissioner promulgated pursuant to sections 17.51 to 17.69 is guilty of a misdemeanor. Any first handler who fails to make collections or to file a return or to pay any assessment within the time required by sections 17.51 to 17.69, or who files a falsified return, shall be liable to the council for the amount due, plus a penalty of six percent of the amount due, plus one percent of the amount for each month of delay. If satisfied that the delay was excusable, the council may return all or any part of the penalty. Penalties shall be paid to the council and disposed of as provided with respect to other money collected under sections 17.51 to 17.69.

History: 1969 c 1021 s 17; 1976 c 149 s 62 subd 2; 1982 c 582 s 13

17.68 [Repealed, 1982 c 582 s 14]

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 council established pursuant to sections 17.51 to 17.69.

History: 1969 c 1021 s 19; 1976 c 149 s 62 subd 2

**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."

History: 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, compara-

ble 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.

History: 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 behalf 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 the person's 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 the other's 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 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 the producer owns and operates or who sells at a produce market, agricultural commodities produced by the producer 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 a 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.

History: 1973 c 736 s 3; 1986 c 444

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 agricul-

tural 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 14, 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 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 a 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, United States Code, title 7, section 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 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 associa-

tion 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 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. 4a. Within 30 days of a decision by the commissioner denying accreditation to an association, the association may request a hearing before the commissioner. The commissioner shall then conduct a hearing to determine whether the association shall be accredited. This hearing shall be governed by the provisions of sections 14.57 and 14.60. If the commissioner, after this hearing has been held, determines that the association should not be accredited, the association may appeal this decision in accordance with sections 14.63 and 14.69. Only an association denied certification after such hearing may appeal under this chapter.

Subd. 5. Accreditation of the association by the commissioner shall be effective upon receipt by the association of the notice of accreditation from the commissioner.

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 discredited 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.

History: 1973 c 736 s 4; 1975 c 88 s 1,2; 1982 c 424 s 130; 1986 c 444

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.

History: 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 the 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 the right to join and belong to an association.

(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 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.

History: 1973 c 736 s 6; 1986 c 444

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

(e) check off procedures pursuant to assessments levied by the association, not to exceed one-half of one percent of the gross value of the producers annual production contract are collected by handlers from proceeds to producers within the bargaining unit and paid to the association.

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 the commissioner deems expedient to affect a voluntary, amicable and expeditious adjustment and settlement of the differences between the handler and the association.

(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 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.

History: 1973 c 736 s 7; 1975 c 88 s 3; 1986 c 444

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.

History: 1973 c 736 s 8

17.699 TIME LIMIT UPON DECISIONS.

The commissioner shall announce findings of fact and decisions in all cases in which the commissioner 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 decisions, the commissioner may engage the services of the bureau of mediation services, whose recommendations shall be considered in the final determination.

History: 1973 c 736 s 9; 1986 c 444

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, the commissioner shall state findings of fact and shall issue and cause to be served on the person an order 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, the commissioner shall make 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 the commissioner deems proper, modify or set aside, in whole or in part, any finding or order 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 the commissioner's findings.

History: 1973 c 736 s 10; 1986 c 444

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 14.

History: 1973 c 736 s 11; 1982 c 424 s 130

- 17.711** [Repealed, 1989 c 326 art 6 s 34]
- 17.712** [Repealed, 1989 c 326 art 6 s 34]
- 17.713** [Repealed, 1989 c 326 art 6 s 34]
- 17.714** [Repealed, 1989 c 326 art 6 s 34]
- 17.715** [Repealed, 1989 c 326 art 6 s 34]
- 17.7155** [Repealed, 1989 c 326 art 6 s 34]
- 17.716** [Repealed, 1989 c 326 art 6 s 34]
- 17.717** [Repealed, 1989 c 326 art 6 s 34]
- 17.718** [Repealed, 1989 c 326 art 6 s 34]
- 17.719** [Repealed, 1989 c 326 art 6 s 34]
- 17.72** [Repealed, 1989 c 326 art 6 s 34]
- 17.721** [Repealed, 1989 c 326 art 6 s 34]

- 17.722 [Repealed, 1989 c 326 art 6 s 34]
- 17.723 [Repealed, 1989 c 326 art 6 s 34]
- 17.724 [Repealed, 1975 c 227 s 10]
- 17.7241 [Repealed, 1988 c 688 art 7 s 8; 1989 c 326 art 6 s 34]
- 17.7242 [Repealed, 1988 c 688 art 7 s 8; 1989 c 326 art 6 s 34]
- 17.7243 [Repealed, 1988 c 688 art 7 s 8; 1989 c 326 art 6 s 34]
- 17.7244 [Repealed, 1988 c 688 art 7 s 8; 1989 c 326 art 6 s 34]
- 17.7245 [Repealed, 1988 c 688 art 7 s 8; 1989 c 326 art 6 s 34]
- 17.7246 [Repealed, 1988 c 688 art 7 s 8; 1989 c 326 art 6 s 34]
- 17.725 [Repealed, 1989 c 326 art 6 s 34]
- 17.726 [Repealed, 1989 c 326 art 6 s 34]
- 17.727 [Repealed, 1989 c 326 art 6 s 34]
- 17.728 [Repealed, 1989 c 326 art 6 s 34]
- 17.7285 [Repealed, 1989 c 326 art 6 s 34]
- 17.729 [Repealed, 1989 c 326 art 6 s 34]
- 17.73 [Repealed, 1989 c 326 art 6 s 34]
- 17.74 MS 1973Supp [Repealed, 1974 c 167 s 1]
- 17.75 MS 1973Supp [Repealed, 1974 c 167 s 1]

17.80 STATE AGRICULTURAL LAND PRESERVATION AND CONSERVATION POLICY.

Subdivision 1. Policy. It is the policy of the state to preserve agricultural land and conserve its long-term use for the production of food and other agricultural products by:

- (a) Protection of agricultural land and certain parcels of open space land from conversion to other uses;
- (b) Conservation and enhancement of soil and water resources to ensure their long-term quality and productivity;
- (c) Encouragement of planned growth and development of urban and rural areas to ensure the most effective use of agricultural land, resources and capital; and
- (d) Fostering of ownership and operation of agricultural land by resident farmers.

Subd. 2. Methods. The legislature finds that the policy in subdivision 1 will be best met by:

- (a) Defining and locating lands well suited for the production of agricultural and forest products, and the use of that information as part of any local planning and zoning decision;
- (b) Providing local units of government with coordinating guidelines, tools and incentives to prevent the unplanned and unscheduled conversion of agricultural and open space land to other uses;
- (c) Providing relief from escalating property taxes and special assessments and protection of normal farm operations in agricultural areas subject to development pressures;
- (d) Development of state policy to increase implementation of soil and water conservation by farmers;
- (e) Assuring that state agencies act to maximize the preservation and conservation of agricultural land and minimize the disruption of agricultural production, in accordance with local social, economic and environmental considerations of the agricultural community;
- (f) Assuring that public agencies employ and promote the use of management procedures which maintain or enhance the productivity of lands well suited to the production of food and other agricultural products;

(g) Guiding the orderly development and maintenance of transportation systems in rural Minnesota while preserving agricultural land to the greatest possible extent;

(h) Guiding the orderly construction and development of energy generation and transmission systems and enhancing the development of alternative energy to meet the needs of rural and urban communities and preserve agricultural land to the greatest possible extent by reducing energy costs and minimizing the use of agricultural land for energy production facilities; and

(i) Guiding the orderly development of solid and hazardous waste management sites to meet the needs and safety of rural and urban communities and preserve agricultural land to the greatest possible extent by minimizing the use of agricultural land for waste management sites.

History: 1982 c 512 s 1

17.81 DEFINITIONS.

Subdivision 1. **Applicability.** For the purposes of sections 17.80 to 17.84, the terms defined in this section have the meanings given them.

Subd. 2. **Action which adversely affects.** "Action which adversely affects" means any of the following actions taken in respect to agricultural land which have or would have the effect of substantially restricting the agricultural use of the land: (1) acquisition for a nonagricultural use except acquisition for any unit of the outdoor recreation system described in section 86A.05, other than a trail described in subdivision 4 of that section; (2) granting of a permit, license, franchise or other official authorization for nonagricultural use; (3) lease of state-owned land for nonagricultural use except for mineral exploration or mining; or (4) granting or loaning of state funds for purposes which are not consistent with agricultural use.

Subd. 3. **Agricultural land.** "Agricultural land" means land which is in agricultural use, and which has been identified as agricultural land by a local unit of government pursuant to sections 394.21 to 394.37, 462.351 to 462.364, 366.10 to 366.19 or 473H.04, or which is composed of predominantly class I, II, III, or IV soils as identified in the land capability classification system of the United States Department of Agriculture Soil Conservation Service and the county soil survey, if completed.

Subd. 4. **Agricultural use.** "Agricultural use" means use of land for the production of livestock, dairy animals, dairy products, poultry and poultry products, fur bearing animals, horticultural and nursery stock which is under sections 18.44 to 18.61, fruit of all kinds, vegetables, forage, grains, bees, and apiary products. Wetlands, pasture and woodlands accompanying land in agricultural use shall be considered to be in agricultural use.

Subd. 5. **Agency.** "Agency" means a department identified in section 15.01, and any other agency of the state whose actions are by virtue of other law governed by the provisions of sections 17.80 to 17.84.

Subd. 6. **Commissioner.** "Commissioner" means the commissioner of agriculture.

History: 1982 c 512 s 2

17.82 PROHIBITED AGENCY ACTION.

Any agency action which the agency determines will adversely affect ten acres or more of agricultural land shall be referred to the commissioner to be reviewed and acted upon as provided in section 17.84. No agency shall take any action which adversely affects ten acres or more of agricultural land without first attempting to find alternative methods or locations for the action or otherwise attempting to reduce the adverse affects. If, after evaluating the alternatives, the agency determines that the benefit to the state from preserving the agricultural use of the land is less than the cost of implementing an alternative action, the agency shall inform the commissioner of that determination in writing.

An agency action is not subject to review under this section or section 17.84 if the action is reviewed as required by chapter 116D and the environmental review rules

adopted under that chapter, or if a political subdivision is required by law to review and approve the action.

History: 1982 c 512 s 3

17.83 AGENCY RULEMAKING.

An agency proposing to adopt a rule which it determines may have a direct and substantial adverse effect on agricultural land shall include notice of the effect in the notice of rule hearing required to be filed by the agency under section 14.14, subdivision 1, and shall inform the commissioner in writing. In its statement of need and reasonableness required under section 14.14, subdivision 2, the agency shall describe the possible adverse effect on agricultural land, state what alternatives the agency considered in order to avoid or reduce the effect, and indicate why the agency elected to proceed with the proposed adoption of the rule. The administrative law judge, in the report required under section 14.50, shall include recommendations regarding actions available to the agency, including necessary amendments to the proposed rule, in order to avoid adverse effects on agricultural land as a result of implementation or enforcement of the rule.

History: 1982 c 424 s 130; 1982 c 512 s 4; 1984 c 640 s 32

17.84 DUTIES OF THE COMMISSIONER.

Within 30 days of the receipt of the notices provided in section 17.82 or 17.83, the commissioner shall review the agency's proposed action, shall negotiate with the agency, and shall recommend to the agency in writing the implementation either of the action as proposed or an alternative. In making recommendations, the commissioner shall follow the statement of policy contained in section 17.80. If the proposed agency action is the adoption of a rule, the recommendation of the commissioner shall be made a part of the record in the rule hearing. If the agency receives no response from the commissioner within 30 days, it shall be deemed a recommendation that the agency take the action as proposed.

History: 1982 c 512 s 5

LABORATORY SERVICES ACCOUNT

17.85 LABORATORY SERVICES ACCOUNT.

A laboratory services account is established in the state treasury. Payments for laboratory services performed by the laboratory services division of the department of agriculture must be deposited in the state treasury and credited to the laboratory services account. Money in the account, including interest earned on the account, is annually appropriated to the commissioner of agriculture to administer the programs of the laboratory services division.

History: 1988 c 688 art 20 s 1

URBAN FOREST PROMOTION AND DEVELOPMENT

17.86 URBAN FOREST PROMOTION AND DEVELOPMENT.

Subdivision 1. **Overall.** The following course of action is intended as a basis for prompt action to the maximum extent practical within the limits of state, local, and commercial resources. The assignment of a basic responsibility to a particular agency is not intended to confer exclusive responsibility or authority unless specifically stated, for joint action is intended as the key to a successful program.

Subd. 2. **Research.** The University of Minnesota and its extension service in cooperation with the commissioner of agriculture shall institute a continuing research program on tree varieties most suitable for growth within the state; and the proper placement of individual trees and groups of trees in new or existing commercial, indus-

trial, and residential settings to maximize energy saving benefits. The University of Minnesota and the commissioner shall work closely with nurseries and other suppliers of trees to assure a constant and reliable supply of the desirable varieties is available for planting.

Subd. 3. **Information.** The University of Minnesota extension service, in cooperation with the commissioners of agriculture, education, natural resources, and public service, shall serve as the principal agency for publishing and circulating information derived from research under subdivision 2 among the various municipalities and individual property owners in the state. Where practical, the extension service and department of public service shall secure the advice and assistance of various energy utilities interested and concerned with conservation. The commissioner of agriculture shall establish an information source for requests for nursery stock, to match needs of municipalities with stocks of trees available for planting from private and governmental sources.

Subd. 4. **Transportation plantings.** The commissioner of transportation shall utilize information on varieties and placement of trees to provide maximum forestation in rest areas and other areas controlled by the department. The commissioner of transportation should consider the use of trees in conjunction with solid noise walls along urban freeways to the maximum extent practical.

Subd. 5. **School Arbor Day activities.** The commissioners of education, agriculture, and natural resources, with the state arbor month committee and its individual public and private members, shall jointly work to expand and strengthen programs available to all levels of schools in forestry education and shall encourage reinstatement of Arbor Day activities. Information on desirable shade tree varieties and efficient spacing and location of shade trees shall be made available for use in related adult education courses.

Subd. 6. **Municipal action.** A city of the first or second class shall, by ordinance, require of the developer the use of properly placed trees in new subdivisions and plantings on lands dedicated to parks and open spaces. Cities of the third and fourth class may adopt such ordinances. Counties may assist and encourage the smaller cities in tree planting programs. A municipality may contract on a long-term basis with nurseries and shade tree wholesalers to assure continued availability of nursery stock of the desirable shade tree varieties.

History: 1990 c 445 s 1

AGRICULTURAL CONTRACTS

17.90 DEFINITIONS.

Subdivision 1. **Applicability.** The definitions in this section apply to sections 17.90 to 17.98.

Subd. 2. **Agricultural commodity.** "Agricultural commodity" means a material produced for use in or as food, feed, seed, or fiber and includes crops for fiber, food, oil-seeds, seeds, livestock, livestock products, poultry, poultry products, and other products or by-products of the farm produced for the same or similar use.

Subd. 3. **Contractor.** "Contractor" means a person who in the ordinary course of business buys agricultural commodities grown or raised in this state or who contracts with a producer to grow or raise agricultural commodities in this state.

Subd. 4. **Producer.** "Producer" means a person who produces or causes to be produced an agricultural commodity in a quantity beyond the person's own family use and is able to transfer title to another or provides management, labor, machinery, facilities, or any other production input for the production of an agricultural commodity.

History: 1990 c 517 s 1

17.91 MEDIATION; ARBITRATION.

A contract for an agricultural commodity between a contractor and a producer must contain language providing for resolution of contract disputes by either mediation or arbitration. If there is a contract dispute, either party may make a written request to the commissioner for mediation or arbitration services as specified in the contract, to facilitate resolution of the dispute.

History: 1990 c 517 s 2

17.92 RECAPTURE OF CAPITAL INVESTMENT REQUIRED BY AN AGRICULTURAL CONTRACT.

Subdivision 1. **Notice and damages to be paid.** A contractor must not terminate or cancel a contract that requires a producer of agricultural commodities to make a capital investment in buildings or equipment that cost \$100,000 or more and have a useful life of five or more years until:

(1) the producer has been given written notice of the intention to terminate or cancel the contract at least 180 days before the effective date of the termination or cancellation or as provided in subdivision 3; and

(2) the producer has been reimbursed for damages incurred by an investment in buildings or equipment that was made for the purpose of meeting minimum requirements of the contract.

Subd. 2. **Notice when producer breaches contract.** Except as provided in subdivision 3, if a producer fails to comply with the provisions of a contract that requires a capital investment subject to subdivision 1, a contractor may not terminate or cancel that contract until:

(1) the contractor has given written notice with all the reasons for the termination or cancellation at least 90 days before termination or cancellation or as provided in subdivision 3; and

(2) the recipient of the notice fails to correct the reasons stated for termination or cancellation in the notice within 60 days of receipt of the notice.

Subd. 3. **Immediate effect of notice.** The 180-day notice period under subdivision 1, clause (1), and the 90-day notice period and 60-day notice period under subdivision 2, clauses (1) and (2), are waived and the contract may be canceled or terminated immediately if the alleged grounds for termination or cancellation are:

(1) voluntary abandonment of the contract relationship by the producer; or

(2) conviction of the producer of an offense directly related to the business conducted under the contract.

History: 1990 c 517 s 3

17.93 PARENT COMPANY RESPONSIBILITY FOR CONTRACTS OF SUBSIDIARIES.

Subdivision 1. **Licensing.** If a contractor is required to obtain a license to purchase agricultural commodities, the licensing authority may require the parent company of a licensee subsidiary to guarantee payment or contract performance as a condition of licensing.

Subd. 2. **Parent company liability.** If an agricultural contractor is the subsidiary of another corporation, partnership, or association, the parent corporation, partnership, or association is liable to a seller for the amount of any unpaid claim or contract performance claim if the contractor fails to pay or perform according to the terms of the contract.

History: 1990 c 517 s 4

17.94 IMPLIED PROMISE OF GOOD FAITH.

There is an implied promise of good faith as defined in section 336.1-201, subsection (19), by all parties in all agricultural contracts. In an action to recover damages,

if the court finds that there has been a violation of this provision, damages, court costs, and attorney fees may be recovered.

History: 1990 c 517 s 5

17.945 RULES.

The commissioner may adopt rules to implement sections 17.90 to 17.98, including the prohibition of specific trade practices.

History: 1990 c 517 s 6

17.95 DEPARTMENT OF AGRICULTURE OMBUDSMAN.

A position is created in the department of agriculture to provide information, investigate complaints arising from this chapter, and provide or facilitate dispute resolutions.

History: 1990 c 517 s 7

17.97 AGRICULTURAL INPUT PREPAYMENTS.

If a producer makes a prepayment for agricultural production inputs that include but are not limited to seed, feed, fertilizer, pesticides, or fuel for future delivery, the producer may demand a letter of credit or bank guarantee from the provider of the inputs to ensure reimbursement if delivery does not occur.

History: 1990 c 517 s 8

17.98 DAIRY MARKETING CONTRACTS EXCEPTED.

Dairy marketing agreements between producers and purchasers of milk are not contracts for purposes of sections 17.90 to 17.98.

History: 1990 c 517 s 9