

AGRICULTURAL MARKETING AND BARGAINING ACT (EXCERPT)
Act 344 of 1972

290.704 Voluntary associations; prohibited practices; complaints; orders.

Sec. 4.

(1) Producers of agricultural commodities may join together voluntarily in associations as authorized by law without interference by handlers. A handler shall not engage or permit an employee or agent to engage in any of the following practices:

(a) To coerce a producer in the exercise of his or her right to join and belong to or to refrain from joining or belonging to an association or to refuse to deal with a producer because of the exercise of his or her right to join and belong to an association except as provided in section 15.

(b) To discriminate against a producer with respect to price, quantity, quality, or other terms of purchase, acquisition, or other handling of agricultural products because of his or her 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 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 this act.

(g) To refuse to bargain with an accredited association with whom the handler has had prior dealings or with an accredited association whose producers in the bargaining units have had substantial dealing with the handler prior to the accreditation of the association.

(h) To negotiate with a producer included in the bargaining unit after an association is accredited.

(2) An association shall not engage or permit an employee or agent to engage in the following practices:

(a) To enter into a contract that discriminates against a producer represented by an accredited association whether or not he or she is a member producer.

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

(c) To refuse to bargain with a handler with whom the accredited association has had prior dealing or with whom its producers have had substantial dealing prior to the accreditation of the association.

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

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

(f) To conspire, combine, agree, or arrange with any other person to do or aid or abet the doing of any practice that is in violation of this act.

(3) For the purpose of enforcing this act, the department may receive sworn complaints with respect to violations or threatened violations. The department may make all necessary investigations, examinations, or inspections of any violation or threatened violation specified in the sworn complaint filed with the department. If, upon an investigation, the department considers that there is reasonable cause to believe that a person charged has committed an unfair practice, the department shall issue and cause to be served a complaint upon the person in accordance with the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. The complaint shall summon the person to a hearing before the department or a hearing officer at the time and place provided in the complaint.

(4) If, upon a preponderance of the evidence, the department determines that the person complained of has committed an unfair practice, the department shall state its findings of fact and shall issue and cause to be served on the person complained of an order requiring him or her to cease the violation and shall order further affirmative action as will effectuate the policies of this act.

(5) If, upon a preponderance of the evidence, the department is of the opinion that the person complained of has not committed an unfair practice, the department shall make its findings of fact and issue an order dismissing the complaint.

(6) Until the record in a case has been filed in a court, as provided in this act, the department, at any time upon reasonable notice and in such manner as the department considers proper, may modify or set aside, in whole or in part, any finding or order made or issued by the department.

(7) The department shall determine whether the expense of the proceedings shall be borne by any person found to have committed a practice in violation of this section.

History: 1972, Act 344, Eff. Mar. 30, 1973 ;-- Am. 2012, Act 119, Imd. Eff. May 2, 2012

Compiler's Notes: For provisions of Act 306 of 1969, referred to in subsection (3), see MCL 24.201 et seq.