

CHAPTER 664

AN ACT to repeal 100.32 (1) (b), (5), (7), (14) (c) and (24); to renumber 100.32 (1) (intro. par.), (a), (c), (f), (3), (4), (6) (a) and (b), (9) to (12), (14) (b), (15), (16) (intro. par.), (a) and (b), (17), (18), (19), (20), (21), (22) and (23); to renumber and amend 100.32 (1) (d), (e), (2), (8), (13), (14) (a) and (16) (c); to amend 20.140 (42m) and 96.01 (1), as renumbered; and to create chapter 96 (title), 96.01 (2), 96.05, 96.07 and 96.14 (3) of the statutes, relating to agricultural marketing.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 20.140 (42m) of the statutes is amended to read:

20.140 (42m) As a revolving appropriation, all moneys received under * * * *ch. 96* for the purpose of carrying out said * * * *chapter* and making refunds under * * * *s. 96.17*.

SECTION 2. Chapter 96 (title) of the statutes is created to read:

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SECTION 3. 96.01 (2) of the statutes is created to read:

96.01 (2) "Agricultural commodity" means any agricultural, horticultural (excepting floricultural), viticultural, vegetable, poultry, and livestock products produced in this state, including milk and milk products, bees and honey, or any class, variety or utilization thereof, either in their natural state or as processed by a producer for the purpose of marketing such product or by a processor, but not including timber and wood products.

SECTION 4. 96.05 of the statutes is created to read:

96.05 PUBLIC HEARING. The public hearing shall be conducted in accordance with s. 227.022.

SECTION 5. 96.07 of the statutes is created to read:

96.07 HANDLERS AND PRODUCERS ASSENT; ORDER; REFERENDUM. (1) (a) No marketing order or major amendment thereto, directly affecting handlers shall become effective until the director finds that such marketing order or amendment thereto has been assented to in writing by handlers who handle not less than 65 per cent of the volume of the agricultural commodity regulated thereby which is processed or distributed within the area defined in such marketing order or amendment thereto, or that such marketing order or amendment thereto has been assented to in writing by not less than 65 per cent of the number of handlers engaged in the marketing activity or activities regulated by such marketing order, but any marketing order or major amendment thereto directly affecting processors engaged in canning fresh fruits or vegetables or canning or packing dried fruits shall not become effective until the director finds that such marketing order or amendment thereto has been assented to in writing by processors who processed not less than 65 per cent of the volume of such agricultural commodity which is processed within the area defined in such marketing order or amendment thereto and by 65 per cent of the number of such processors engaged in the marketing activity or activities regulated by such marketing order or amendment thereto.

(b) No marketing order or major amendment thereto, directly affecting producers or producer marketing shall become effective until the director finds one or more of the following:

1. That such marketing order or amendment thereto has been assented to in writing by not less than 65 per cent of the producers who are engaged, within the area specified in such marketing order or amendment thereto, in the production for market or engaged in such producer marketing, of not less than 51 per cent of the agricultural commodity specified therein in commercial quantities, or

2. That such marketing order or amendment thereto has been assented to in writing by producers who produce not less than 65 per cent of the volume of such agricultural commodity and by 51 per cent of the total number of producers so engaged, or

3. That such marketing order or amendment thereto has been approved by producers of record with the department in a referendum conducted among producers directly affected by such order. The producers directly affected shall be deemed to have approved a proposed order if 51 per cent or more by number reply to the referendum within the time limited by the director and if, of those replying, two-thirds or more by number who produce 51 per cent or more of the volume of the commodity in the area approve the proposed order, or if 51 per cent of the affected producers who produce 51 per cent of the volume of said commodity in the area approve the proposed order; volume shall be determined on the basis of the quantity of the commodity produced in the next preceding marketing season.

(bm) Regardless of whether it directly affects handlers or producers, no marketing order or major amendment thereto covering any vegetable crop contracted to be grown for canning shall become effective until the director finds that such marketing order or amendment thereto has been assented to in writing by both handlers and producers in the same manner as if each were directly affected.

(c) In finding whether such marketing order or major amendment thereto is assented to in writing or approved or favored by producers pursuant to this chapter, the director shall consider the approval of any agricultural co-operative marketing association, which is authorized by its members so to assent, as being the assent, approval or favor of the producers who are members of such agricultural co-operative marketing association, provided that any member of a co-operative may elect to cast his vote individually if he so notifies the co-operative and the director in writing.

(d) 1. At each public hearing upon a marketing order or a major amendment thereto, the director shall receive testimony or evidence relative to the period of time which may be necessarily required for the filing, checking, and tabulating of written assents prescribed in this section. At the conclusion of each such hearing the director shall make a finding, based upon the evidence and testimony so received, with respect to the period of time which may be reasonably and necessarily required for such filing, checking and tabulating. On the basis of such finding the director shall fix and limit the period during which such assents may be received by the director and such period shall be announced by the director at the time of mailing of assent forms to producers and handlers affected, but if the director finds that an extension of such period is reasonably warranted he may extend such period for receiving assents.

2. At a public hearing held to consider a proposed marketing order or major amendments to an existing marketing order which directly affects producers or producer marketing, the director shall also receive testimony or evidence from which he can determine whether the assent, approval or favor of such producers shall be determined by written assents or by referendum. Upon the conclusion of any hearing which involves a marketing

order or a major amendment thereto directly affecting producers or producer marketing, the director shall make a finding, based upon testimony and evidence received, whether producer assent, approval or favor shall be determined by written assents or by referendum.

(2) Subject to the provisions, restrictions and limitations imposed herein, the director may issue marketing orders regulating producer marketing, the processing, distributing or handling in any manner of agricultural commodities by any and all persons engaged in such producer marketing, processing, distributing or handling of such agricultural commodities within this state.

SECTION 6. 96.14 (3) of the statutes is created to read:

96.14 (3) VACANCIES. In the event any vacancies on the advisory board exist or arise, the director shall appoint affected producers or handlers to fill such vacancies.

SECTION 7. 100.32 (1) (intro. par.) and (a) of the statutes are renumbered 96.01 (intro. par.) and (1) and 96.01 (1) as renumbered, is amended to read:

96.01 (1) "Marketing order" means an order issued by the director of the state department of agriculture * * * under this * * * chapter.

SECTION 8. 100.32 (1) (b) of the statutes, is repealed.

SECTION 9. 100.32 (1) (c) of the statutes is renumbered 96.01 (3).

SECTION 10. 100.32 (1) (d) and (e) of the statutes are renumbered 96.01 (4) and (5) and amended to read:

96.01 (4) "Handler" means any person engaged within this state in the business of distributing or placing in the channels of trade or commerce, an agricultural commodity, or any person engaged as a processor in the business of processing an agricultural commodity * * *.

(5) "Affected producer or handler" means any producer or handler of an affected commodity who * * * would be regulated by the provisions of a proposed marketing order other than by the provisions authorized under * * * s. 96.16 (3).

SECTION 11. 100.32 (1) (f) of the statutes is renumbered 96.01 (6).

SECTION 12. 100.32 (2) of the statutes is renumbered 96.02 and amended to read:

96.02 It is declared to be the policy of this state to promote orderly and efficient marketing of agricultural commodities and to prevent economic waste of the agricultural wealth of this state. Unfair methods of competition, lack of uniform grading and classification of agricultural commodities, and the inability of individual producers to obtain present markets or to develop new or larger markets for Wisconsin * * * agricultural commodities result in disorderly marketing of such commodities. As a result agricultural producers are prevented from receiving a fair return for the products which they market. Such conditions jeopardize the continued production of an adequate food supply for this and other states, and may result in unemployment with its attendant burdens on the citizens of this state. The production, processing and marketing of agricultural commodities within this state is hereby declared to be affected with a public interest and * * * this chapter is enacted for the purpose of protecting the health, peace, safety and general welfare of the people of this state.

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SECTION 13. 100.32 (3) and (4) of the statutes are renumbered 96.03 and 96.04, respectively.

SECTION 14. 100.32 (5) of the statutes is repealed.

SECTION 15. 100.32 (6) (a) (intro. par.), 1, 2 and 3 and (b) of the statutes are renumbered 96.06 (1) (intro. par.), (a), (b) and (c) and (2), respectively.

SECTION 16. 100.32 (7) of the statutes is repealed.

SECTION 17. 100.32 (8) of the statutes is renumbered 96.08 and amended to read:

96.08 Marketing orders may be terminated in the same manner provided for their issuance, except that the required assent shall be 51 per cent or more by number of those voting, representing 51 per cent or more by volume of the affected commodity produced or handled by those voting; but the director shall suspend or terminate any marketing order whenever he finds, after public hearing duly noticed and held in accordance with this * * * chapter, that such marketing order is contrary to or does not tend to effectuate the declared purposes of this * * * chapter. Every marketing order shall terminate 3 years from the date of its issuance or last assent. Within 6 months of the expiration of such 3-year period the director shall conduct a referendum as provided for in * * * s. 96.07 to determine whether such marketing order shall remain in effect.

SECTION 18. 100.32 (9), (10), (11) and (12) of the statutes are renumbered 96.09, 96.10, 96.11 and 96.12, respectively.

SECTION 19. 100.32 (13) of the statutes is renumbered 96.13 and amended to read:

96.13 A marketing order shall define the area of the state to be covered by the order, which may be all or any portion of the state. The order may provide that its provisions * * * apply with respect to the affected commodity marketed or sold within such area regardless of where produced.

SECTION 20. 100.32 (14) (a) of the statutes is renumbered 96.14 (1) and amended to read:

96.14 (1) Every marketing order issued pursuant to this * * * chapter shall provide for the establishment of an advisory board to assist the director in the administration of the marketing order. If the marketing order affects directly only producers of a particular commodity, the members of the board shall be producers. If the marketing order affects directly only handlers of a particular commodity, the members of the board shall be handlers. If the marketing order affects directly both producers and handlers of a particular commodity *or covers any vegetable crop contracted to be grown for canning*, such board shall be composed of both producers and handlers. Each marketing order shall prescribe the number and term of office of members of the advisory board. * * * *Persons who will serve on the advisory board if the marketing order is assented to shall be selected by the affected producers and handlers by secret ballot at the time of the referendum provided for in * * * s. 96.07.* Notice of the director's decision shall contain a call for nominations and limit the time within which they can be filed. Nominations shall be signed by at least 5 persons qualified to vote for such candidates.

SECTION 21. 100.32 (14) (b) (intro. par.), 1, 2, 3, 4, 5 and 6 of the statutes are renumbered 96.14 (2) (intro. par.), (a), (b), (c), (d), (e) and (f), respectively.

SECTION 22. 100.32 (14) (c) of the statutes is repealed.

SECTION 23. 100.32 (15) and (16) (intro. par.), (a) and (b) of the statutes are renumbered 96.15 and 96.16 (intro. par.), (1) and (2), respectively.

SECTION 24. 100.32 (16) (c) of the statutes is renumbered 96.16 (3) and amended to read:

96.16 (3) Handlers receiving the affected commodity from the producer, including warehousemen, to collect producer assessments from producers whose production they handle and remit the same to the director. * * * *Lending* agencies for commodity credit corporation loans to producers shall be deemed handlers for the purpose of this * * * *subsection*. No affected units shall be transported, carried, shipped, sold, stored or otherwise handled or disposed of until every due and payable assessment provided for by this * * * *section* has been paid and a receipt issued, but no liability under this * * * *section* shall attach to common carriers in the regular course of their business.

SECTION 25. 100.32 (17), (18), (19) and (20) (intro. par.), (a), (b), (c), (d), (e), (f) and (g) of the statutes are renumbered 96.17, 96.18, 96.19 and 96.20 (intro. par.), (1), (2), (3), (4), (5), (6) and (7), respectively.

SECTION 26. 100.32 (21), (22) and (23) of the statutes are renumbered 96.21, 96.22 and 96.23, respectively.

SECTION 27. 100.32 (24) of the statutes is repealed.

SECTION 28. Wherever the term "section" is used in the following sections of the statutes the term "chapter" is substituted: 96.01 (6), 96.03, 96.04, 96.06 (1) (b) and (c), 96.10, 96.11, 96.12, 96.14 (2) (e) and (f), 96.15, 96.18, 96.19, 96.20 (intro. par.) and (2), 96.21, 96.22 and 96.23. The revisor of statutes shall show the change in publishing the statutes.

Approved January 31, 1962.
