CHAPTER 96

AGRICULTURAL MARKETING ACT

96.01 Agricultural marketing act; definitions.
96.02 Policy.
96.03 Marketing orders.
96.04 Marketing agreement.
96.05 Marketing orders and agreements; creation, amendments and termination.
96.06 Notice; hearing.
96.07 Decisions.
96.08 Referendum and assent procedures.
96.09 Marketing agreement council.
96.10 Marketing boards.
96.11 Assessments.
96.12 Collection.
96.13 Refunds.
96.14 Reports and accounting procedures.
96.15 Rules.
96.16 Application of funds.
96.17 Nonpayment and enforcement.
96.18 Price fixing.
96.19 Restraint of trade.
96.20 Public record.

Cross−reference: See definitions in s. 93.01.

96.01 Agricultural marketing act; definitions. As used in this chapter:

(1) "Affected commodity" means any agricultural commodity for which the production, marketing, processing, handling, sale or distribution of is included under the terms of a marketing order or marketing agreement or a proposed marketing order or marketing agreement.

(2) "Affected producer or handler" means any producer or handler of an affected commodity, except that it does not include a producer or handler not assenting to a marketing agreement.

(3) "Agricultural commodity" means any agricultural, horticultural (excepting floricultural), viticultural, vegetable, poultry, and livestock products produced in this state, including for use as a bioenergy feedstock, 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, except timber and wood products used as a bioenergy feedstock.

(4) "Assent" means a signed statement of affected producers or handlers consenting to the terms of a marketing agreement.

(4m) "Bioenergy feedstock" means biomass used to produce energy, including transportation fuel, heat, or electricity.

(5) "Handler" means any person engaged in the business of distributing or placing an agricultural commodity in commercial channels, or any person engaged in the business of processing an agricultural commodity.

(6) "Marketing agreement" means an agreement entered into by the secretary under this chapter.

(7) "Marketing order" means an order issued by the secretary under this chapter.

(8) "Member−patron" means a person who is a member of a cooperative under ch. 185 or 193 and whose products are marketed through that cooperative.

(9) "Producer" means any person engaged in the business of producing or causing to be produced for market in commercial quantities any agricultural commodity.

(10) "Referendum" means any voting procedure under which affected producers or handlers may, by secret ballot, vote for or against the issuance, amendment or termination of a marketing order.

(11) "Vote" means to cast a ballot in a referendum or an election.

History: 1977 c. 29 s. 1650m (2); 1981 c. 283, 314; 2005 a. 441; 2009 a. 401; 2011 a. 32.

96.02 Policy. 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 adequate food and energy supplies 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.

History: 2009 a. 401.

96.03 Marketing orders. (1) APPLICABILITY. A marketing order is applicable to all producers and handlers included under the terms of the order.

(2) PROVISIONS. A marketing order issued under this chapter may contain any of the following:

(a) Provisions for market research and development programs to maintain present markets or to create new or additional markets for affected agricultural commodities produced in this state. Any such programs must be directed toward increasing the sale of the affected commodity without reference to a particular brand or trade name. No market development program may be funded under a marketing order which makes use of false or unwarranted claims on behalf of an affected commodity or disparages the quality, value, sale or use of any other agricultural commodity.

(b) Provisions for funding research studies to improve production, processing or distribution of an affected commodity.

(c) Provisions for educational programs designed to inform producers, handlers or other interested persons about quality improvement and nutritional value of the affected commodity, or about practices, procedures and methods used in the production, processing and marketing of the affected commodity.

(d) Provisions for the development and funding of programs, jointly or cooperatively with public or private organizations, to carry out the purposes of a marketing order.

(e) Provisions that establish a minimum volume or other standard for affected producers. The order may define the area of the state to be covered by the order, which may be all or any portion of the state, and it may provide that its provisions apply to all of the affected commodity produced or marketed within that area regardless of where sold or processed.

History: 1981 c. 283, 391.

Cross−reference: See also chs. ATCP 140, 141, 142, 144, 145, 148, and 149, Wis. adm. code.

96.04 Marketing agreement. (1) APPLICABILITY. A marketing agreement is applicable only to producers and handlers who assent to the agreement.

(2) PROVISIONS. A marketing agreement entered into under this chapter may contain any of the following:

(a) Provisions for the adoption of grading and other uniform standards of identity for an affected commodity, which may include condition, size or maturity or any other specified quality.

(b) Provisions for uniform grading and inspection, or for minimum standards, of an affected commodity that is marketed in regular trade channels, except that any standard established may not be below any other minimum standard prescribed by law.

(c) Provisions relating to the correction or prohibition of trade practices which are found to be unfair under s. 100.20.

(d) Provisions that establish a minimum volume or other standard for affected producers. The agreement may define the area of the state to be covered by the agreement, which may be all or any portion of the state, and it may provide that its provisions apply to all of the affected commodity produced or marketed within that area regardless of where sold or processed.

(e) Provisions establishing minimum prices at which the affected commodity may be purchased from producers in the area. Different minimum prices may be established for various areas in the state. Provision for the automatic adjustment of minimum prices according to predetermined conditions may be included. No marketing agreement containing a provision establishing minimum prices may conflict with, or be more restrictive than, any other marketing order or agreement under state or federal law. In establishing minimum prices for an affected commodity purchased from producers, all of the following economic factors shall be taken into consideration:

1. The differing methods by which the affected commodity is produced, processed and transported.

2. Estimated costs of production and transportation, including a reasonable return on management.

3. Changes in consumption.

4. Other economic factors which substantially and directly affect supply and demand of the affected commodity.

(f) Provisions for the collection of fees to fully compensate for services needed to carry out the purposes of the agreement.

History: 1981 c. 283 ss. 8, 41.

Cross−reference: See also ch. ATCP 151, Wis. adm. code.

96.05 Marketing orders and agreements; creation, amendments and termination. (1) Whenever the secretary has reason to believe that the issuance of a marketing order or agreement will effectuate the declared policy of this chapter with respect to any agricultural commodity, the secretary shall, on the secretary's own motion or upon petition of affected producers or handlers of the agricultural commodity, give due notice of and an opportunity for a public hearing upon a proposed marketing order or agreement.

(1m) If the secretary, based on periodic assessments of markets for bioenergy feedstocks, determines that the issuance of a marketing order or agreement for bioenergy feedstocks will effectuate the declared policy of this chapter, the secretary shall propose the issuance of a marketing order or agreement under sub. (1) for bioenergy feedstocks.

(2) Petitions for a marketing order or agreement shall be signed by at least 5 percent of the producers or handlers of the affected commodity. The petitions shall include the name and mailing address of each petitioner, the quantities in which the affected commodity was produced or handled by them in the last preceding year, and a clear statement of the substance or nature of the proposed order or agreement, and shall be accompanied by a draft of the proposed order or agreement. Within a reasonable time after receipt of a petition, the secretary shall either schedule the proposal for public hearing as provided in sub. (1), or deny the petition in writing if in the judgment of the secretary the proposal exceeds the purposes or limitations of this chapter. If the petition is denied, the secretary shall give notice, within 60 days, of the denial and the notice shall include a clear statement of the specific reasons for the denial. Notice of the denial shall be published as a class 1 notice under ch. 985. If a petition is denied it may not be reconsidered by the secretary for a period of one year from the date of notice of the denial.

(3) Prior to the issuance of a notice of public hearing on any proposed marketing order or agreement, the secretary shall establish a list of producers or handlers of the affected commodity or make any existing list current. The list of producers or handlers who may be affected by the proposed order or agreement may be established from other records kept by the department or records that may be available from any other reliable source. The secretary may, as necessary in establishing lists or keeping existing lists current, require producers or handlers of the affected commodity to file with the secretary a report showing the producer's or handler's name and mailing address and the yearly average quantity of affected commodities produced or handled by the producer or handler in the 5 years preceding the date of the notice, or in such lesser period as the producer or handler has produced or handled the commodity in question.

(4) If the secretary requires the filing of reports, notice of the requirement shall be published as a class 1 notice, under ch. 985, and otherwise distributed or publicized within the affected areas in such a manner as the secretary deems necessary to ensure that effective notice is given of the report filing requirement. All reports shall be filed with the secretary within 20 days from the date of publication of the notice or within such other period as the secretary prescribes. The secretary shall keep such lists at all times as current as possible and may require information from affected producers or handlers at various times in accordance with rules prescribed by the secretary. No marketing order for any agricultural commodity shall be issued unless the secretary finds that the list established under this section represents at least a majority of the affected producers or handlers.

(5) The list of producers or handlers established by the department shall be final and conclusive in determining whether the issuance of a marketing order or marketing agreement has been approved by referendum or written assent, and in determining the eligibility of nominees and voters in elections for board members. Nothing in this section shall prohibit affected producers or handlers whose names and addresses are not on the department list from participating under this chapter and registering their names and addresses and, as required, quantities of commodities produced or handled by them, in connection with the execution of an assent, or the casting of a ballot in a referendum or election.

(6) Prior to conducting any hearing, or submitting a proposed marketing order or agreement to affected producers or handlers for their approval, the secretary may require petitioners to deposit with the department funds reasonably necessary to defray the costs and expenses that may be incurred by the department in establishing producer or handler lists, sending mail, issuing notices, conducting hearings and referendum or assent proceedings, and other related costs and expenses that may be incurred prior to issuing a marketing order or agreement. The secretary shall refund to petitioners all funds in excess of those actually used.

(7) A marketing order or marketing agreement may be amended or terminated as provided under s. 96.08. The secretary may suspend a marketing agreement whenever the secretary finds after a public hearing duly noticed that such an agreement cannot be reasonably enforced or is contrary to the purposes of this chapter.

(8) The secretary shall develop, maintain and distribute administrative policies and guidelines that establish uniform terms, conditions, definitions and nomenclature to be used in marketing orders and agreements.

History: 1971 c. 31, 268; 1981 c. 283 ss. 7, 10; Stats. 1981 s. 96.05; 2009 a. 401.

Marketing orders are discussed. 64 Atty. Gen. 198.

96.06 Notice; hearing. (1) The notice for a public hearing under s. 96.05 shall be given as provided in s. 227.17 and shall be

published as a class 1 notice under ch. 985 within affected areas of the state as prescribed by the secretary. Notice shall be given not less than 10 days nor more than 60 days prior to the date of hearing.

(2) The hearing shall be conducted in accordance with s. 227.18.

History: 1981 c. 283 ss. 9, 12; 1981 c. 391; 1985 a. 182 s. 57.

96.07 Decisions. (1) The secretary shall make and publish findings upon every material point controverted at the hearing and required by this chapter, and upon such other matters which may be relevant to the issuance, amendment or termination of a marketing order or agreement. The secretary shall issue a decision within 45 days after the close of the hearing based upon the findings and shall cause copies of the findings and recommended decision to be delivered or mailed to all parties of record appearing at the hearing or their attorneys of record. The decision shall contain the text in full of any order or agreement or amendment or termination of an existing order or agreement, and may deny or approve the proposal in its entirety or it may recommend a marketing order or agreement containing different terms or conditions from those contained in the proposal, but such decision shall be substantially within the purview of the notice of hearing and shall be supported by evidence taken at the hearing or by documents of which the secretary is authorized to take official notice. The secretary shall not approve the issuance, amendment or termination of any marketing order or agreement unless the secretary finds all of the following:

(a) That the proposed issuance, amendment or termination is reasonably calculated to attain the objectives sought in the proposed marketing order or agreement.

(b) That the proposed issuance, amendment or termination is in conformity with this chapter.

(c) That the interests of consumers of such commodity are protected in that the powers of this chapter are being exercised only to the extent necessary to attain such objectives.

(2) The secretary shall deliver or mail copies of the decision to the same parties to whom copies of the findings are required to be sent. If the final decision denies the proposal in its entirety, no further action shall be taken by the secretary.

History: 1981 c. 283 s. 11; Stats. 1981 s. 96.07.

96.08 Referendum and assent procedures. (1) MARKETING ORDER; REFERENDUM. (a) Every proposal for the creation of a marketing order shall include a proposed voting requirement from par. (b) to be used for the adoption of the proposal. The secretary shall receive testimony and evidence on the proposed voting requirement at the public hearing. The decision issued under s. 96.07 shall state which voting requirement will be used for the adoption of the proposal and that requirement may be different from the one contained in the proposal.

(b) A marketing order may not become effective until the secretary finds that the needed voting requirement has been met. In determining whether the voting requirement under subd. 2. or 4. has been met the secretary may not consider any votes cast using the bloc voting procedure under sub. (3). One of the following voting requirements must be used. The secretary must find that a marketing order:

1. Is approved by producers on record with the department in a referendum conducted among producers directly affected by the marketing order. The producers directly affected shall be deemed to have approved a proposed order if 50 percent or more by number of producers on record with the department vote and if, of those voting, two−thirds or more by number who produce 50 percent or more of the volume of the affected commodity or 50 percent by number who produce two−thirds or more of the volume approve the proposed marketing order. Volume shall be determined on the basis of the quantity of the commodity produced in the last preceding marketing season.

2. Is approved in a referendum by 50 percent or more of the producers of the affected commodity who produced 50 percent or more of the volume in the last preceding marketing season.

3. Is approved by not less than 50 percent of the producers voting provided that 50 percent of the producers on the established list vote in the referendum.

4. Is approved by more than 50 percent of the affected producers voting in the referendum, provided that the marketing order provides for producer refunds.

5. Is approved in a referendum by 50 percent or more of the handlers on record with the department if the marketing order directly affects handlers.

6. Is approved in a referendum by 50 percent or more of the producers and 50 percent or more of the handlers on record with the department if the order directly affects producers and handlers.

(c) An amendment to, or the termination of, a marketing order may not become effective until the secretary finds that the same voting requirement is met that was used to adopt the order.

(2) MARKETING AGREEMENT; ASSENT. (a) A marketing agreement may not become effective until the secretary finds that not less than 50 percent of the affected producers or handlers assent to the proposal.

(b) An amendment to, or the termination of, a marketing agreement may not become effective until the secretary finds that not less than 50 percent of the producers or handlers who assented to the marketing agreement, assent to the proposed amendment or termination.

(3) BLOC VOTING AND ASSENT PROCEDURE. (a) In finding whether a marketing order is approved by referendum or a marketing agreement is assented to, the secretary shall consider the approval or disapproval of any agricultural cooperative marketing association, which is authorized by its members to cast a bloc vote or assent on behalf of its members as the approval or disapproval of the producers who are members of the agricultural cooperative marketing association, but any member of a cooperative may elect to vote or assent individually and be excluded from the bloc vote or assent by notifying the cooperative and the secretary in writing. At least 45 days prior to the commencement of a referendum or assent procedure, a cooperative that intends to cast a bloc vote or assent for its members shall notify its members of their right to vote or assent individually and be excluded from the bloc vote or assent, and it shall file with the department a list of its members for whom it is eligible to vote or assent. The secretary shall delete from the list the names of those producers who have filed notice of their intent to vote or assent individually. Notice by the cooperative to the department shall include a statement that it has complied with the notice requirements of this paragraph.

(b) A cooperative association or an unincorporated cooperative association engaged in the marketing of affected commodities as the agent of its members may cast a bloc vote or assent for its members, except that it shall exclude from its bloc vote or assent any of its members who are also member−patrons of another cooperative or unincorporated cooperative association which intends to cast a bloc vote or assent for those members.

History: 1981 c. 283; 2005 a. 441.

96.09 Marketing agreement council. (1) The secretary may provide for the establishment of a council to assist in the administration of a marketing agreement.

(2) If the secretary establishes a marketing agreement council, its duties shall include, but not be limited to the following:

(a) To recommend to the secretary administrative rules relating to the marketing agreement.

(b) To receive and report to the secretary complaints of violations of the marketing agreement.

(c) To recommend to the secretary amendments to the marketing agreement.

(d) To advise the secretary in the collection of such information and data as the secretary deems necessary for the proper administration of the agreement.

(e) To recommend to the secretary methods by which administrative costs of a marketing agreement can be recovered.

(3) A marketing agreement council is not a council under s. 15.09 and shall be governed exclusively by this chapter and s. 15.04 (1) (c).

History: 1981 c. 283.

96.10 Marketing boards. (1) SELECTION. Every marketing order issued pursuant to this chapter shall provide for the establishment of a marketing board. 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, the board shall be composed of both producers and handlers. Each marketing order shall prescribe the representation on the board of affected parties. Each marketing order shall also prescribe the number and term of office of board members, the time limits within which nominations for the election of board members are to be filed and elections held and the manner in which vacancies are filled. Board members may be elected for staggered terms as specified in the marketing order. Persons who will serve on the board shall be selected by the affected producers and handlers by secret ballot according to area, size or any other measure providing for fair representation, as determined by the secretary, from a list of persons whose nominations have been filed with the secretary. Notice of the secretary's decision under s. 96.07, with respect to the issuance of a marketing order, shall contain a call for nominations and limit the time within which they can be filed. No marketing order may take effect until a marketing board has been elected. Nominations shall be signed by at least 5 persons qualified to vote for the candidates.

(2) DUTIES. The duties of a marketing board shall include but not be limited to the following:

(a) To develop and recommend to the secretary administrative rules relating to the marketing order.

(b) To receive, evaluate and report to the secretary complaints of violations of the marketing order.

(c) To recommend to the producers and handlers directly affected by the marketing order or to the secretary amendments to the marketing order.

(d) To develop procedures for assessments and for the collection of funds to cover expenses incurred in carrying out the programs and the administration of the marketing order.

(e) To collect such information and data as necessary for the proper administration of the order.

(f) To determine how the funds collected under the order are to be allocated in accordance with this chapter and the provisions of the order.

(g) To prepare annually a report on the operation of the order for the previous marketing year.

(3) INCORPORATION. A marketing board shall incorporate under ch. 181 as a nonstock, nonmember corporation. The articles of incorporation shall be within the purposes and limitations of this chapter and the marketing order. The articles of incorporation and any amendment may not become effective until approved by the secretary. The secretary may not approve the articles of incorporation until the secretary finds that it contains procedures that are adequate to preserve the confidentiality of any information relating to the businesses of affected producers and handlers that is obtained under this chapter or the order. The marketing board shall adopt bylaws and amendments to the bylaws in consultation with the secretary.

(4) BONDING. The marketing board shall maintain a bond on its officers and employees in an amount of not less than 50 percent of the annual operating budget of the order.

(5) ADMINISTRATIVE SERVICES. The marketing board may request the department to provide administrative services for the order. If requested, the department shall provide the services needed and the board shall reimburse the department for all of the costs incurred by the department in providing the services.

(6) NATURE OF A MARKETING BOARD. A marketing board elected under an order is not a board under s. 15.07 and shall be governed exclusively by this chapter.

History: 1981 c. 283 ss. 19, 26; Stats. 1981 s. 96.10.

Cross−reference: See also chs. ATCP 140, 141, 142, 144, 145, 148, and 149, Wis. adm. code.

96.11 Assessments. (1) Each marketing order issued under this chapter shall provide for the levying and collection of assessments in sufficient amounts to defray the expenses incurred by the marketing board for program operations and administration of the order. Each marketing order shall indicate the maximum rate of any such assessment which may be collected and the proportion, if any, payable by each producer or handler directly affected by the marketing order. The marketing board may recommend to the secretary the assessment rate necessary to provide sufficient funds to cover the marketing order budget. The marketing board shall determine when assessments become due and payable and the units upon which the assessment rate applies. All assessments collected are payable to the marketing board.

(2) If the secretary finds that the marketing order budget or assessment rate exceeds the limitations of, or is contrary to, the declared purposes of this chapter or the marketing order, the secretary may disapprove the budget and any amendments to the budget, or assessment rate.

(3) (a) 1. Except as provided under par. (c), a corn producer who sells corn that is subject to the assessment levied under sub. (1) under the marketing order for corn shall pay an additional assessment of 0.4 cents per bushel, to be collected and remitted to the marketing board in the manner provided in the marketing order for the assessment under sub. (1).

2. If the marketing order for corn provides for rebates under s. 96.13 (2), a producer to whom subd. 1. applies may obtain a rebate of the assessment paid under subd. 1. in the manner provided in the marketing order for obtaining a rebate of the assessment levied under sub. (1).

(b) The marketing board for corn shall use the moneys received under par. (a) for the purposes of the marketing order for corn.

(c) 1. The department shall conduct a referendum on whether to terminate the assessment under par. (a) if after June 30, 2011, and before January 1, 2012, 10 percent of the producers who sell corn that is subject to the assessment levied under sub. (1) petition for a referendum. The assessment under par. (a) does not apply after June 30, 2012, if a referendum to terminate the assessment is approved by affected producers.

2. If the marketing order for corn is terminated, pars. (a) and (b) do not apply.

History: 1981 c. 283 ss. 22, 29, 30; Stats. 1981 s. 96.11; 2007 a. 26.

96.12 Collection. To ensure the proper collection of assessments, the marketing board may require:

(1) Any person subject to the assessment to give the board adequate assurance or security for its payment.

(2) Every affected producer or handler subject to the assessment to deposit with the board in advance an amount not to exceed 25 percent of the estimated total annual assessment payable by the person. At the close of the marketing year the sum so deposited shall be adjusted to the total of such assessments payable by the person.

(3) Handlers receiving the affected commodity to collect assessments from affected producers and remit such assessments to the marketing board. Lending agencies for commodity credit corporation loans to producers shall be deemed handlers for the purpose of this subsection. Handlers who are only collecting assessments from producers under this section are not considered affected handlers under the marketing order.

History: 1981 c. 283 s. 31; Stats. 1981 s. 96.12.

96.13 Refunds. (1) Assessments collected by the marketing board under any marketing order or as an advance deposit against the assessment shall be used by the marketing board only for the purpose of carrying out the purposes and provisions of the order, including the administrative costs.

(2) A marketing order may contain a provision granting producers who have paid an assessment under the order, and who do not favor the program developed under the order, the right to receive a refund of assessments paid upon submission of proof satisfactory to the marketing board that the assessment for which a refund is requested has been paid. Claims for producer refunds must be submitted on forms prescribed by the board and filed with the board within 90 days after the date the assessment became due and payable. All claims shall be audited and paid by the board within 60 days after receipt of the claim, or within such other reasonable period of time as may be necessary to determine the validity of the claim.

(3) Upon termination of any marketing order, any and all moneys remaining with the marketing board and not required to defray expenses or repay obligations incurred shall be returned to the affected producers or handlers in proportion to the assessments paid by each in the 2−year period preceding the date of the termination order. If the marketing board and the secretary find that the returnable amounts are so small that the computation and return of the remaining funds is impractical, the board may use the remaining funds to further any of the basic purposes or objectives of the terminated marketing order.

History: 1981 c. 283 ss. 25, 33; Stats. 1981 s. 96.13.

96.14 Reports and accounting procedures. (1) The secretary or a marketing board may require handlers and producers of agricultural commodities to file such information and reports as may be reasonably necessary to assist in carrying out the functions under this chapter.

(2) All assessments, appropriations and administrative costs for any marketing order or agreement created under this chapter shall be recorded, prepared and audited in accordance with generally accepted accounting principles.

History: 1981 c. 283 ss. 20, 21, 27; Stats. 1981 s. 96.14.

96.15 Rules. The secretary may, in consultation with the appropriate marketing board or council, issue such rules as necessary to facilitate the administration and enforcement of this chapter.

History: 1981 c. 283 s. 23; Stats. 1981 s. 96.15.

96.16 Application of funds. A marketing board may invest all assessments, gifts or grants that are collected or received by the board under a marketing order after consulting with the secretary. The board may not use funds received, collected or accrued under a marketing order for any purpose other than program operations and administration of the order. No such funds may be used for any other marketing order or to influence either state or federal legislation or rule making except rule making directly related to the order.

History: 1981 c. 283 s. 32; 1987 a. 252.

96.17 Nonpayment and enforcement. (1) Any due and payable assessment levied under a marketing order or under s. 96.11 (3) (a) and every sum due under either a marketing order or agreement in a specified amount shall constitute a personal debt of every person so assessed or who is otherwise liable and the same sum shall be due and payable to the secretary or the marketing board according to the terms and conditions of the marketing order or agreement. In the event any person fails to pay the full amount of such assessment or such other sum on or before the due date, the secretary may add to such unpaid assessment or sum an amount not exceeding 10 percent of the amount due to defray the cost of enforcing collection. In the event any person fails to pay any due and payable assessment or sum, the secretary may bring a civil action against such person for collection, together with the above specified 10 percent.

(2) A person who violates a marketing order or agreement shall forfeit not less than $100 nor more than $500 for the first offense, and not less than $200 nor more than $1,000 for a subsequent offense. Each day of violation constitutes a separate offense.

(3) A person who intentionally violates a marketing order or agreement shall be fined not more than $10,000 or imprisoned not more than 9 months or both.

(4) Actions of a marketing board which exceed the articles of incorporation or violate the bylaws adopted by the board constitute violations of the order and the board members are individually subject to the penalties under subs. (2) and (3).

(5) The secretary may apply to a circuit court for an injunction to restrain any person from violating this chapter or a marketing order or agreement under this chapter.

(6) If a handler is not a resident or is not authorized to do business in this state, the handler may designate an agent upon whom service of process may be made in this state. The agent shall be a resident of this state or a corporation authorized to do business in this state. The designation shall be in writing and filed with the department of financial institutions. If no designation is made and filed or if process cannot be served in this state upon the designated agent, after reasonable effort, process may be served upon the department of financial institutions.

History: 1981 c. 283 ss. 34 to 36; Stats. 1981 s. 96.17; 1995 a. 27; 2007 a. 26.

96.18 Price fixing. Nothing contained in this chapter shall permit fixing of prices not otherwise permitted by law except as permitted under s. 96.04.

History: 1973 c. 311; 1981 c. 283 s. 43; Stats. 1981 s. 96.18.

96.19 Restraint of trade. In any civil or criminal action or proceeding for violation of any rule of statutory or common law against monopolies or combinations in restraint of trade, proof that the act complained of was done in compliance with this chapter or a marketing order or agreement issued under this chapter and in furtherance of the purposes and provisions of this chapter shall be a complete defense to such action or proceeding.

History: 1981 c. 283 s. 42; Stats. 1981 s. 96.19.

96.20 Public record. (1) Each referendum shall be conducted by secret ballot, and the ballots and results shall be a matter of public record and open to inspection.

(2) All assents filed with the department for the approval of a marketing agreement, an amendment or the termination of an agreement are a matter of public record and open to inspection.

(3) All contracts made by a marketing board are a matter of public record and open to inspection.

(4) All annual reports on an order's operation issued by a marketing board are a matter of public record and open to inspection.

(5) All information relating to the businesses of producers and handlers that is obtained under this chapter is not a public record and is not available for inspection.

History: 1981 c. 283 ss. 16, 39.