MARKETING FEES FOR FRUITS AND VEGETABLES

Act 153 of 1975

AN ACT to require certain purchasers of fruits and vegetables to deduct and remit marketing fees if authorized by a grower-member of a cooperative marketing association; to prescribe the powers and duties of certain state agencies; and to prescribe means of enforcement and penalties.

History: 1975, Act 153, Imd. Eff. July 9, 1975

The People of the State of Michigan enact:

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290.691 Deduction and remittance of marketing fees by purchaser of fruits and vegetables; statement.

Sec. 1.

An agricultural producer and member of an agricultural cooperative marketing association organized under Act No. 327 of the Public Acts of 1931, as amended, being sections 450.62 to 450.192 of the Michigan Compiled Laws, may, by a membership and marketing agreement or by separate written authorization, authorize a processor, handler, distributor, dealer, broker or agent thereof, each of which is hereinafter referred to as a purchaser, to make deductions from any money due the member for fruits and vegetables received or purchased from the member. The amount or rate of the deductions and the names of the members from whose accounts deductions are authorized to be made shall be set forth in a written statement, filed by the association with the purchaser of the members' fruits or vegetables on or before delivery of the members' produce. The purchaser shall deduct from moneys due members of the association the amounts authorized to be deducted and shall forward the moneys deducted to the designated association on or before the fifteenth day of the month after the month for which payment is due or within 30 days after the harvest season of each commodity, together with a summary statement showing the producer's name, quantity purchased, the grades thereof, the gross sales proceeds of each commodity due the grower, and the amount deducted therefrom pursuant to the authorization.

History: 1975, Act 153, Imd. Eff. July 9, 1975

290.692 Enforcement; complaint; investigation; hearing; powers and duties of hearing officer; judicial order; contempt; rules.

Sec. 2.

(1) For the purpose of enforcing this act, the department of agriculture may receive sworn complaints with respect to violations or threatened violations of this act. The director of the department of agriculture, or his or her authorized representatives, shall make all necessary investigations, examinations, or inspections of violations or threatened violations specified in the sworn complaint filed with the department.

(2) The department of agriculture shall complete an investigation within 30 days after the filing of the complaint.

(3) If, upon investigation, the director of the department of agriculture considers there is reasonable cause to believe that a violation of this act has occurred, the director or his or her authorized representative shall, within 75 days after the filing of the complaint, provide notice and opportunity for a hearing under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, to determine whether a purchaser has failed to comply with this act.

(4) A hearing officer designated by the director of the state office of administrative hearings and rules shall preside at the hearing and may administer oaths and require the attendance of witnesses and the production of such books, papers, contracts, agreements, and documents as are considered material to a just determination of the issues in dispute, and for that purpose may issue subpoenas. If a person refuses to obey a subpoena or refuses to be sworn or to testify or if a witness, party, or attorney is guilty of contempt while in attendance at a hearing, the hearing officer may, or the attorney general if requested shall, invoke the aid of the circuit court within the

jurisdiction in which the hearing is being held to issue an appropriate order. Failure to obey the order may be punished by the court as contempt.

(5) The department may promulgate rules pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

History: 1975, Act 153, Imd. Eff. July 9, 1975 ;-- Am. 2006, Act 221, Imd. Eff. June 26, 2006

290.693 Order requiring remittance of moneys to designated association; cease and desist order; recovery of costs and expenses; order dismissing complaint; civil penalty.

Sec. 3.

(1) If upon the preponderance of the testimony taken the director of the department of agriculture is of the opinion that a purchaser named in the complaint has violated this act, then the director shall state his findings of fact and conclusions of law and cause to be served on that purchaser an order requiring the purchaser to immediately forward the appropriate moneys to the designated association.

(2) The director may apply to the circuit court for an order requiring the purchaser to cease and desist from violating the act and the court may order further affirmative relief as will effectuate the policies of this act. The director may permit the aggrieved association to recover all reasonable costs and expenses incurred in filing and prosecuting the complaint, including attorney fees.

(3) If upon the preponderance of the testimony taken, the director is not of the opinion that any purchaser named in the complaint has violated this act, then the director shall state his findings of fact and conclusions of law and issue an order dismissing the complaint.

(4) A purchaser who violates this act may also be liable for a civil penalty of not more than $500.00 for each violation of this act.

History: 1975, Act 153, Imd. Eff. July 9, 1975

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