

**§1965. Unfair practices**

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 nor permit an employee or agent to engage in any of the following practices, defined as unfair practices:

A. To coerce a producer in the exercise of his 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 right to join and belong to an association except as provided in section 1958, subsection 5; [PL 1987, c. 155, §23 (AMD).]

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 membership in or contract with an association; [PL 1973, c. 621, §1 (NEW).]

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; [PL 1973, c. 621, §1 (NEW).]

D. To pay or loan money, give anything of value or offer any other inducement or regard to a producer for refusing or ceasing to belong to an association; [PL 1973, c. 621, §1 (NEW).]

E. To make or circulate unsubstantiated reports about the finances, management or activities of associations or handlers; [PL 1973, c. 621, §1 (NEW).]

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; [PL 1973, c. 621, §1 (NEW).]

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; or [PL 1973, c. 621, §1 (NEW).]

H. To negotiate with a producer included in the bargaining unit after an association is accredited. [PL 1973, c. 621, §1 (NEW).]

[PL 1987, c. 155, §23 (AMD).]

2. An association shall not engage or permit an employee or agent to engage in the following practices, defined as unfair practices:

A. To act in a manner contrary to the bylaws of the association; [PL 1973, c. 621, §1 (NEW).]

B. 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; [PL 1973, c. 621, §1 (NEW).]

C. 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; [PL 1973, c. 621, §1 (NEW).]

D. To make or circulate unsubstantiated reports about the finances, management or activities of other associations or handlers; [PL 1973, c. 621, §1 (NEW).]

E. 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; [PL 1973, c. 621, §1 (NEW).]

F. To hinder or prevent, by picketing, threats, intimidations, force or coercion of any kind, the pursuit of any lawful work or employment, or to obstruct or interfere with entrance to or egress from any place of employment, or to obstruct or interfere with free and uninterrupted use of public roads, streets, highways, railways, airports or other ways of travel or conveyance; [PL 1973, c. 621, §1 (NEW).]

G. To exercise coercive pressure by picketing, patrolling or otherwise business establishments other than the premises owned or controlled by the handler in order to cause such parties to cease doing business with such handler. [PL 1973, c. 621, §1 (NEW).]

[PL 1973, c. 621, §1 (NEW).]

**3. Notice; opportunity for hearing.** Whenever it is charged that a qualified association or a handler has committed an unfair practice under this section, the board shall provide that person with notice and opportunity to be heard, in a manner consistent with the Maine Administrative Procedure Act, Title 5, chapter 375, as to adjudicatory hearings.

[PL 1987, c. 155, §24 (NEW).]

**4. Hearing.** Hearings held pursuant to subsection 3 shall be held in a manner consistent with the Maine Administrative Procedure Act, Title 5, chapter 375, as to adjudicatory hearings. The board shall request that the Attorney General or any attorney in his department designated by the Attorney General, be present at these hearings and shall advise the board on procedure and on the admissibility of any evidence.

[PL 1987, c. 155, §24 (NEW).]

**5. Findings.** If, upon a preponderance of the evidence, the board determines that the person complained of has committed an unfair practice, in violation of this article, it shall state its findings of fact and shall issue an order requiring the person to cease and desist from such conduct and shall order such further affirmative action, excluding an award of damages, as will effectuate the policies of this article. Failure to comply with such an order is a violation of this article. If the board determines that the person complained of has not committed an unfair practice, it shall state its findings of fact and shall issue an order dismissing the charges.

[PL 1987, c. 155, §24 (NEW).]

**6. Frivolous charges.** If the board determines that a charge of unfair practice is frivolous, it shall state its findings of fact and may issue a reprimand to the person making the charge. Where the board determines that a person who made a charge which was determined to be frivolous did so knowing the charge to be frivolous, it shall state its findings of fact and shall issue an order requiring that person to pay the reasonable attorneys fees and double the amount of other reasonable costs incurred by the person against whom the charge was made in defending against the charge before the board. Where it is disputed, reasonableness shall be determined by the board. The order shall also require that person to reimburse the State for the per diem payments made to board members for their attendance at the hearing on the charge. Failure to comply with such an order is a violation of this article.

[PL 1987, c. 155, §24 (NEW).]

#### SECTION HISTORY

PL 1973, c. 621, §1 (NEW). PL 1987, c. 155, §§23,24 (AMD).

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