

## §1958. Bargaining

**1. Definition.** As used in this article, "bargaining" is the mutual obligation of a handler and a qualified association to meet at reasonable times and negotiate in good faith with respect to the price, terms of sale, compensation for commodities produced or sold, or both, under contract and other contract provisions relative to the commodities that such qualified association represents and the execution of a written contract incorporating any agreement reached if requested by either party. Such obligation on the part of any handler shall extend only to a qualified association that represents producers with whom such handler has had a prior course of dealing. Such obligation does not require either party to agree to a proposal or to make a concession. The obligation to bargain continues until the commencement of required mediation, as provided in section 1958-B, subsection 2.

[PL 1987, c. 155, §10 (AMD).]

**2. Prior course of dealing.** A handler shall be deemed to have had a prior course of dealing with a producer if such handler has purchased commodities produced by such producer in any 2 of the preceding 3 years, provided that the sale by a handler of his business shall not negate any prior course of dealing that producers have had with this business.

[PL 1973, c. 621, §1 (NEW).]

**3. Contracts.** Nothing in this Article shall be deemed to prohibit a qualified bargaining association from entering into contracts with handlers to supply the full agricultural production requirements of such handlers.

[PL 1973, c. 621, §1 (NEW).]

### **4. Limitation.**

[PL 1987, c. 155, §11 (RP).]

**5. Further limitation.** It shall be unlawful for a handler to purchase a product from other persons under terms more favorable to such persons than those terms negotiated with a qualified bargaining association for such product, unless such handler has first offered to purchase said product under said more favorable terms from the members of the qualified association of producers and said members have failed to supply the required product within a reasonable time according to said more favorable terms.

[PL 1973, c. 621, §1 (NEW).]

**6. Notice; opportunity for hearing.** Whenever it is charged that a qualified association or handler refuses to bargain, as that term is defined in subsection 1, 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, §12 (AMD).]

**7. Hearing.** Hearings held pursuant to subsection 6 shall be held in a manner consistent with the Maine Administrative Procedure Act as to adjudicatory hearings. The board shall request that the Attorney General, or any attorney in his department designated by him, be present at these hearings and shall advise the board on procedure and on the admissibility of any evidence.

[PL 1977, c. 694, §282 (RPR).]

**8. Findings.** If, upon a preponderance of the evidence, the board determines that the person complained of has refused to bargain, in violation of this article, it shall state its findings of fact and shall issue an order requiring him to bargain as that term is defined in subsection 1 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 refused to bargain, it shall state its findings of fact and shall issue an order dismissing the charges.

[PL 1987, c. 155, §13 (AMD).]

**9. Dismissal.**

[PL 1977, c. 694, §283 (RP).]

**10. Modification.** Until the record in a case has been filed in a court, as provided in section 1959, the board may at any time, upon reasonable notice and in such manner as it deems proper, modify or set aside, in a whole or in part, any finding or order made or issued by it.

[PL 1973, c. 621, §1 (NEW).]

**SECTION HISTORY**

PL 1973, c. 621, §1 (NEW). PL 1977, c. 694, §§281-283 (AMD). PL 1987, c. 155, §§10-13 (AMD).

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