

STATE OF NEW YORK

6163

2023-2024 Regular Sessions

IN ASSEMBLY

April 3, 2023

Introduced by M. of A. LEMONDES -- read once and referred to the Committee on Agriculture

AN ACT to amend the agriculture and markets law and the cooperative corporations law, in relation to establishing a farmers' bill of rights

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The agriculture and markets law is amended by adding two
2 new sections 256-c and 256-d to read as follows:

3 § 256-c. Farmers' bill of rights; declaration of policy. The
4 expressed intent of the agriculture and markets law and the policy of
5 this state is to foster and encourage the marketing of farm products
6 through producer owned and controlled cooperatives. The orderly market-
7 ing of farm products for the benefit of farmers, distributors, and
8 consumers is enhanced when farmers are free to make an independent unco-
9 erced decision regarding their participation in cooperative associ-
10 ations, as authorized by state and federal law. Interference in the
11 exercise of this free right of choice is contrary to the public inter-
12 est. For this reason, the legislature finds that the public interest
13 requires that there be a specification of prohibited unfair trade prac-
14 tices which have the purpose of intentionally impairing a farmer's free-
15 dom to bargain collectively with other farmers in the marketing of the
16 farmer's product.

17 For purposes of this section, (i) an "association of farmers" or
18 "cooperative" shall mean any corporation or association of persons
19 engaged in the production of farm products and operating for the mutual
20 benefit of its members in conformity with the requirement of the
21 Capper-Volstead act, and any federation of such corporations or associ-
22 ations, or of such corporations, associations, and individual farmers,
23 and (ii) an association of farmers shall not be considered to be a
24 distributor.

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 § 256-d. Unfair practices by dealers. 1. It shall be unlawful for any
2 distributor or any of its officers, managers, agents, or employees to
3 intentionally impair a farmer's freedom to join or to participate in an
4 association of farmers or cooperative by:

5 (a) coercing, through threat of injury to person or property, or to
6 health, safety, business or financial condition, reputation or personal
7 relationships any farmer in the exercise of his or her right to join and
8 belong to an association of farmers or cooperative;

9 (b) soliciting or requesting any producer to breach a marketing agree-
10 ment or other contractual agreement between the producer and an associ-
11 ation of farmers or cooperative;

12 (c) making a loan or gift of money, or of anything else of value, or
13 offering to make such a loan or gift for the specific purpose of induc-
14 ing a farmer to refuse or cease to belong to an association of farmers
15 or cooperative;

16 (d) refusing to deal with any farmer, because of the exercise of the
17 farmer's right to join and belong to an association of farmers or coop-
18 erative;

19 (e) making false reports about the finances or management of an asso-
20 ciation of farmers or other dealers in reckless disregard of the truth
21 or knowing that such statements are untrue and that there is a reason-
22 able likelihood that such statements will impair a farmer's right to
23 make an independent decision to belong to an association of farmers or
24 cooperative; and

25 (f) conspiring, combining, agreeing, or arranging with any other
26 person to do, or aid and abet the doing of, any act made unlawful by
27 this section.

28 2. For purposes of this section: (a) an "association of farmers" or
29 "cooperative" shall mean any corporation or association of persons
30 engaged in the production of farm products and operating for the mutual
31 benefit of its members in conformity with the requirements of the
32 Capper-Volstead act, and any federation of such corporations or associ-
33 ations, or of such corporations, associations, and individual producers,
34 and (b) an association of farmers shall not be considered to be a
35 distributor.

36 3. Nothing in this section is intended to prevent bargaining between
37 distributors and farmers or associations of farmers with respect to
38 price or any other terms of purchase or handling of farm products in a
39 course of dealing not proscribed by this section, nor to prevent farmers
40 from requiring that payment be made through an association of farmers or
41 cooperative.

42 4. Whenever the commissioner has reason to believe a violation of this
43 section has occurred, the commissioner may commence such judicial
44 action, or institute such investigation or proceeding and issue an order
45 based thereon, as is provided by this article or article three of this
46 chapter; provided, however, that the commissioner shall take no action
47 against a distributor under section two hundred fifty-eight-c of this
48 article for conduct which is a violation of this section unless such
49 distributor is at the time of such conduct subject to a final adminis-
50 trative or judicial order which prohibits such conduct by such distribu-
51 tor; and provided further that nothing contained in this section shall
52 impair or delay the private right of action created by section seventy-
53 four of the cooperative corporations law for any violation of that
54 section.

55 § 2. Section 74 of the cooperative corporations law is amended to read
56 as follows:

1 § 74. Liability for damages for encouraging or permitting delivery of
2 products in violation of marketing agreements. Any person, firm or
3 corporation who solicits or persuades or aids or abets any member of any
4 cooperative corporation incorporated under or subject to this chapter to
5 breach his marketing contract with the corporation by accepting or
6 receiving such member's products for sale, marketing, manufacturing or
7 processing thereof contrary to the terms of any marketing agreement of
8 which said person or any officer ~~[or]~~, manager, agent or employee of the
9 said corporation has knowledge or notice, shall be liable in the penal
10 sum of ~~[one hundred]~~ not more than ten thousand dollars for each
11 contract, to the cooperative corporation aggrieved in a civil suit for
12 damages; and such cooperative corporation shall be entitled to an
13 injunction against such person, firm or corporation to prevent further
14 breaches.

15 § 3. This act shall take effect immediately.