

Public Law 87-725

AN ACT

To amend the provisions of the Perishable Agricultural Commodities Act, 1930, relating to practices in the marketing of perishable agricultural commodities.

October 1, 1962
[S. 1037]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That paragraphs (6) and (7) of the first section of the Perishable Agricultural Commodities Act, 1930 (7 U.S.C. 499a), are amended to read as follows:

"(6) The term 'dealer' means any person engaged in the business of buying or selling in wholesale or jobbing quantities, as defined by the Secretary, any perishable agricultural commodity in interstate or foreign commerce, except that (A) no producer shall be considered as a 'dealer' in respect to sales of any such commodity of his own raising; (B) no person buying any such commodity solely for sale at retail shall be considered as a 'dealer' until the invoice cost of his purchases of perishable agricultural commodities in any calendar year are in excess of \$90,000; and (C) no person buying any commodity for canning and/or processing within the State where grown shall be considered a 'dealer' whether or not the canned or processed product is to be shipped in interstate or foreign commerce, unless such product is frozen or packed in ice, or consists of cherries in brine, within the meaning of paragraph (4) of this section. Any person not considered as a 'dealer' under clauses (A), (B), and (C) may elect to secure a license under the provisions of section 3, and in such case and while the license is in effect such person shall be considered as a 'dealer';

"(7) The term 'broker' means any person engaged in the business of negotiating sales and purchases of any perishable agricultural commodity in interstate or foreign commerce for or on behalf of the vendor or the purchaser, respectively, except that no person shall be deemed to be a 'broker' if such person is an independent agent negotiating sales for and on behalf of the vendor and if the only sales of such commodities negotiated by such person are sales of frozen fruits and vegetables having an invoice value not in excess of \$90,000 in any calendar year."

SEC. 2. The first section of such Act (7 U.S.C. 499a) is further amended by adding at the end thereof the following new paragraphs:

"(9) The term 'responsibly connected' means affiliated or connected with a commission merchant, dealer, or broker as (A) partner in a partnership, or (B) officer, director, or holder of more than 10 per centum of the outstanding stock of a corporation or association;

"(10) The terms 'employ' and 'employment' mean any affiliation of any person with the business operations of a licensee, with or without compensation, including ownership or self-employment."

SEC. 3. The third sentence of section 3(b) of such Act (7 U.S.C. 499c(b)) is amended to read as follows: "Upon the filing of the application, and annually thereafter, the applicant shall pay such fee as the Secretary determines necessary to meet the reasonably anticipated expenses for administering this Act and the Act to prevent the destruction or dumping of farm produce, approved March 3, 1927 (7 U.S.C. 491-497), but in no event shall such fee exceed \$50. Such fee, when collected, shall be deposited in the Treasury of the United States as a special fund, without fiscal year limitation, to be designated as the 'Perishable Agricultural Commodities Act Fund', which shall be available for all expenses necessary to the administration of this Act and the Act approved March 3, 1927, referred to above: *Provided*, That financial statements prescribed by the Director of the Bureau of the Budget for the last completed fiscal year, and as estimated for the current and ensuing fiscal years, shall be included in the budget as

Perishable Agricultural Commodities Act, 1930, amendment.

50 Stat. 725;
46 Stat. 532.
Definitions.

License fees.
64 Stat. 217.

44 Stat. 1355.

"Perishable Agricultural Commodities Act Fund."

submitted to the Congress annually. The Secretary shall give public notice of any increase to be made in the annual fee prescribed by him hereunder and shall allow a reasonable time prior to the effective date of such increase for interested persons to file their views on or objections to such increase."

46 Stat. 533.

SEC. 4. Section 3 of such Act (7 U.S.C. 499c) is further amended by adding at the end thereof the following new subsection:

Trade names.

"(c) A licensee may conduct business in more than one trade name or change the name under which business is conducted without requiring an additional or new license. The Secretary may disapprove the use of a trade name if, in his opinion, the use of the trade name by the licensee would be deceptive, misleading, or confusing to the trade, and the Secretary may, after notice and opportunity for a hearing, suspend for a period not to exceed ninety days the license of any licensee who continues to use a trade name which the Secretary has disapproved for use by such licensee. The Secretary may refuse to issue a license to an applicant if he finds that the trade name in which the applicant proposes to do business would be deceptive, misleading, or confusing to the trade if used by such applicant."

Bankruptcy.

70 Stat. 726.

SEC. 5. Section 4(a) of such Act (7 U.S.C. 499d(a)) is amended by inserting before the period at the end thereof: "*And provided further*, That the license of any licensee shall terminate upon said licensee, or in case the licensee is a partnership, any partner, being discharged as a bankrupt".

SEC. 6. Section 4(b) of such Act (7 U.S.C. 499d(b)) is amended to read as follows:

License refusal.

"(b) The Secretary shall refuse to issue a license to an applicant if he finds that the applicant, or any person responsibly connected with the applicant, is a person who, or is or was responsibly connected with a person who—

7 USC 499h.

"(A) has had his license revoked under the provisions of section 8 within two years prior to the date of the application or whose license is currently under suspension;

7 USC 499b.

"(B) within two years prior to the date of application has been found after notice and opportunity for hearing to have committed any flagrant or repeated violation of section 2, but this provision shall not apply to any case in which the license of the person found to have committed such violation was suspended and the suspension period has expired or is not in effect;

44 Stat. 1355.

"(C) within two years prior to the date of the application, has been found guilty in a Federal court of having violated the provisions of the Act of March 3, 1927 (7 U.S.C. 491-497), relating to the prevention of destruction and dumping of farm produce; or

Post, p. 675;

7 USC 499g.

"(D) has failed, except in the case of bankruptcy and subject to his right of appeal under section 7(c), to pay any reparation order issued against him within two years prior to the date of the application."

SEC. 7. Section 4(c) of such Act (7 U.S.C. 499d(c)) is amended to read as follows:

Period of license ineligibility.

"(c) Any applicant ineligible for a license by reason of the provisions of subsection (b) of this section may, upon the expiration of the two-year period applicable to him, be issued a license by the Secretary if such applicant furnishes a surety bond in the form and amount satisfactory to the Secretary as assurance that his business will be conducted in accordance with this Act and that he will pay all reparation orders which may be issued against him in connection with transactions occurring within four years following the issuance of the license, subject to his right of appeal under section 7(c). In the event such applicant does not furnish such a surety bond, the Secretary

shall not issue a license to him until three years have elapsed after the date of the applicable order of the Secretary or decision of the court on appeal. If the surety bond so furnished is terminated for any reason without the approval of the Secretary the license shall be automatically canceled as of the date of such termination and no new license shall be issued to such person during the four-year period without a new surety bond covering the remainder of such period. The Secretary, based on changes in the nature and volume of business conducted by a bonded licensee, may require an increase or authorize a reduction in the amount of the bond. A bonded licensee who is notified by the Secretary to provide a bond in an increased amount shall do so within a reasonable time to be specified by the Secretary, and upon failure of the licensee to provide such bond his license shall be automatically suspended until such bond is provided."

SEC. 8. Subsections (c) and (d) of section 6 of such Act (7 U.S.C. 499f) are amended by striking out "\$500" each place it appears and inserting in lieu thereof "\$1,500".

74 Stat. 200;
48 Stat. 587.

SEC. 9. Section 7(c) of such Act (7 U.S.C. 499g(c)) is amended by striking the second sentence thereof and substituting therefor the following: "Such appeal shall be perfected by the filing with the clerk of said court a notice of appeal, together with a petition in duplicate which shall recite prior proceedings before the Secretary and shall state the grounds upon which petitioner relies to defeat the right of the adverse party to recover the damages claimed, with proof of service thereof upon the adverse party. Such appeal shall not be effective unless within thirty days from and after the date of the reparation order the appellant also files with the clerk a bond in double the amount of the reparation awarded against the appellant conditioned upon the payment of the judgment entered by the court, plus interest and costs, including a reasonable attorney's fee for the appellee, if the appellee shall prevail. Such bond shall be in the form of cash, negotiable securities having a market value at least equivalent to the amount of bond prescribed, or the undertaking of a surety company on the approved list of sureties issued by the Treasury Department of the United States."

Bond on appeal.
48 Stat. 587;
54 Stat. 214.

SEC. 10. Section 7(d) of such Act (7 U.S.C. 499g(d)) is amended by striking the proviso at the end of the section and substituting therefor the following: "Provided, That if on the appeal the appellee prevails or if the appeal is dismissed the automatic suspension of license shall become effective at the expiration of thirty days from the date of the judgment on the appeal, but if the judgment is stayed by a court of competent jurisdiction the suspension shall become effective ten days after the expiration of such stay, unless prior thereto the judgment of the court has been satisfied."

Stay of license
termination on ap-
peal.
50 Stat. 729.

SEC. 11. Section 8(b) of such Act (7 U.S.C. 499h(b)) is amended to read as follows:

Employment
of certain persons
by licensees.
70 Stat. 727.

"(b) Except with the approval of the Secretary, no licensee shall employ any person, or any person who is or has been responsibly connected with any person—

"(1) whose license has been revoked or is currently suspended by order of the Secretary;

"(2) who has been found after notice and opportunity for hearing to have committed any flagrant or repeated violation of section 2, but this provision shall not apply to any case in which the license of the person found to have committed such violation was suspended and the suspension period has expired or is not in effect; or

"(3) against whom there is an unpaid reparation award issued within two years, subject to his right of appeal under section 7(c).

7 USC 499b.

Ante, p. 675.
7 USC 499g.

The Secretary may approve such employment at any time following nonpayment of a reparation award, or after one year following the revocation or finding of flagrant or repeated violation of section 2, if the licensee furnishes and maintains a surety bond in form and amount satisfactory to the Secretary as assurance that such licensee's business will be conducted in accordance with this Act and that the licensee will pay all reparation awards, subject to its right of appeal under section 7(c), which may be issued against it in connection with transactions occurring within four years following the approval. The Secretary may approve employment without a surety bond after the expiration of two years from the effective date of the applicable disciplinary order. The Secretary, based on changes in the nature and volume of business conducted by the licensee, may require an increase or authorize a reduction in the amount of the bond. A licensee who is notified by the Secretary to provide a bond in an increased amount shall do so within a reasonable time to be specified by the Secretary, and if the licensee fails to do so the approval of employment shall automatically terminate. The Secretary may, after thirty days' notice and an opportunity for a hearing, suspend or revoke the license of any licensee who, after the date given in such notice, continues to employ any person in violation of this section."

SEC. 12. The Act of June 10, 1933 (48 Stat. 123; 7 U.S.C. 581-589), popularly known as the Export Apple and Pear Act, is amended by adding at the end thereof a new section as follows:

Appropriation.

"SEC. 10. There are hereby authorized to be appropriated such sums as may be necessary for the administration of this Act."

Approved October 1, 1962.

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October 1, 1962
[H. J. Res. 730]

JOINT RESOLUTION

To authorize the President to proclaim May 15 of each year as Peace Officers Memorial Day and the calendar week of each year during which such May 15 occurs as Police Week.

Whereas the police officers of America have worked devotedly and selflessly in behalf of the people of this Nation, regardless of the peril or hazard to themselves; and

Whereas these officers have safeguarded the lives and property of their fellow Americans; and

Whereas by the enforcement of our laws, these same officers have given our country internal freedom from fear of the violence and civil disorder that is presently affecting other nations; and

Whereas these men and women by their patriotic service and their dedicated efforts have earned the gratitude of the Republic: Now, therefore, be it

Peace Officers
Memorial Day.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue proclamations (1) designating May 15 of each year as Peace Officers Memorial Day in honor of the Federal, State, and municipal officers who have been killed or disabled in the line of duty, (2) designating in each year the calendar week during which such May 15 occurs as Police Week, in recognition of the service given by the men and women who, night and day, stand guard in our midst to protect us through enforcement of our laws, and (3) inviting the governments of the States and communities and the people of the United States to observe such day and week with appropriate ceremonies and activities.

Police Week.

Approved October 1, 1962.