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Referred: Resources

1 IN THE HOUSE

BY KERTTULA

2 HOUSE BILL NO. 382

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the marketing of vegetables."

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

8 * Section 1. AS 03 is amended by adding a new chapter to read:

9 CHAPTER 18. MARKETING OF VEGETABLES.

10 Sec. 03.18.010. DUTIES OF THE DIRECTOR. The director shall (1)
11 administer secs. 10 - 100 of this chapter, (2) enforce secs. 10 - 100
12 of this chapter and the provisions of marketing orders issued under
13 them, and (3) have an accounting made of the funds held by the board at
14 least annually.

15 Sec. 03.18.020. VEGETABLE MARKETING ADVISORY BOARD. There is the
16 Vegetable Marketing Advisory Board consisting of seven members. The
17 director shall select the members of the board from among Alaskan pro-
18 ducers, handlers and retailers and consumers. No more than one handler,
19 one retailer and one consumer representative may serve on the board at
20 one time.

21 Sec. 03.18.030. DUTIES OF THE BOARD. The board shall
22 (1) advise the director in the formulation of policy for the
23 operation of the market program;
24 (2) receive and report complaints and violations of a market-
25 ing order;
26 (3) assist the director in the collection of data;
27 (4) collect, hold and account for the assessments authorized
28 by secs. 10 - 100 of this chapter.

29 Sec. 03.18.040. VEGETABLE MARKETING ORDERS. (a) The director

1 may, with the advice of the board, issue, change or repeal marketing
2 orders to regulate the marketing of vegetables in specified regions of
3 the state. The director's actions are subject to the provisions of
4 the Administrative Procedure Act (AS 44.62) and sec. 60 of this chapter.
5 A marketing order may be issued to

- 6 (1) establish more orderly marketing of vegetables;
- 7 (2) provide for uniform grading and classification of
8 vegetables;
- 9 (3) provide for the proper preparation of vegetables for
10 market;
- 11 (4) insure an adequate supply of vegetables;
- 12 (5) eliminate unfair competitive practices;
- 13 (6) assist producers to adjust to changing conditions;
- 14 (7) maintain incentives for the production of high quality
15 vegetables;
- 16 (8) conduct research, promote and provide information for
17 the benefit of the producers, consumers, handlers, processors, whole-
18 salers and retailers.

19 (b) A vegetable marketing order shall be limited both as to a
20 specific area or areas in the state and to a specific vegetable or
21 vegetables.

22 Sec. 03.18.050. CONTENT OF MARKETING ORDERS. (a) A marketing
23 order may direct that

- 24 (1) a determination be made of whether a surplus of a vege-
25 table exists and, if so, its extent;
- 26 (2) a surplus be disposed of with a proration of the burden
27 of any loss among the handlers and producers;
- 28 (3) the quantity or grade of a specific vegetable sold for
29 a certain period be limited;

1 (4) the quantity a producer may sell be limited, based upon
2 both the quantity available and the quantities he previously handled
3 or produced;

4 (5) the quantity or grade a handler may handle during
5 specified periods, based upon the quantity a handler has available and
6 the quantities he previously handled;

7 (6) a surplus pool of vegetables or a grade of a vegetable
8 be formed and the vegetables sold, and the proceeds of sale be equitably
9 distributed;

10 (7) vegetables be inspected, graded and classified, or any
11 of these;

12 (8) an assessment, not to exceed three per cent of value, be
13 levied on the sale of vegetables to provide a fund for sales promotion,
14 research and the expenses of the board;

15 (9) prices at which a grade or quantity of a specific
16 vegetable will be sold be posted;

17 (10) stations be established for the receiving and deter-
18 mining of quantity of vegetables, and the collection of assessments;

19 (11) cooperative investigations or undertakings be entered
20 into with other state or federal agencies.

21 (b) Marketing orders are of general rather than special applica-
22 bility. An order is applicable to all producers and handlers of the
23 vegetable subject to the order in the area in which the order applies.

24 Sec. 03.18.060. PROCEDURE FOR ISSUANCE OF MARKETING ORDERS. (a)
25 A vegetable marketing order is initiated by the submission of a petition
26 signed by not less than 10 per cent of the commercial producers in the
27 area to which the marketing order is to apply. Upon receiving the
28 petition, the director shall proceed as provided in the Administrative
29 Procedure Act (AS 44.62.180 - 44.62.290). In reaching a decision on

1 the requested marketing order, the director shall consider the following
2 factors:

- 3 (1) the quantity and quality of the vegetable available in
4 the area;
5 (2) the quantity of the vegetable required in the area;
6 (3) the costs of production; and
7 (4) the comparative position of the vegetable in the economy
8 of the area.

9 (b) Before the director may issue, change or repeal a marketing
10 order, it must be approved in a referendum by (1) at least two-thirds
11 of the producers voting in the referendum, each of whom, during a repre-
12 sentative period, has produced for market commercial quantities of the
13 affected vegetables and who, during the same period, have produced in
14 total more than one-half of the volume of the commodity in the market
15 area specified in the order; and (2) handlers, in the same area and
16 during the same period, of at least one-half of the volume of the vege-
17 table.

18 (c) A marketing order which is approved by the producers but
19 disapproved by the handlers may nevertheless be issued if necessary to
20 carry out the purposes of secs. 10 - 100 of this chapter. In such a
21 case the director may not issue the order without the permission of the
22 commissioner of natural resources.

23 Sec. 03.18.065. EXAMINATION AND PRODUCTION OF RECORDS AND PERSONS.
24 To assist the director in issuing, changing or repealing marketing
25 orders

26 (1) the director or his authorized agent may inspect the
27 books, accounts, papers, records and memoranda of a handler or producer
28 and examine under oath any officer, agent or employee of a handler or
29 producer in relation to its business and affairs; a person who asserts

1 the right to inspect shall produce his authority to do so; and

2 (2) the director may, by order or subpoena served on a
3 handler or producer in the same manner as a summons in a civil action
4 in the superior court, require the production of original or verified
5 copies of books, accounts, papers or records kept by a handler or
6 producer at any place inside or outside the state in order that an
7 examination may be made by the director or under his direction.

8 Sec. 03.18.070. UNAUTHORIZED ACTIONS. No action is authorized by
9 secs. 10 - 100 of this chapter if it (1) is intended to or does fix
10 prices in violation of federal law, or (2) places an undue burden on
11 interstate commerce.

12 Sec. 03.18.080. SCOPE. Secs. 10 - 100 of this chapter pertain
13 only to vegetables of a type produced in Alaska.

14 Sec. 03.18.090. PENALTIES. A person who violates a provision of
15 secs. 10 - 100 of this chapter or an order made under secs. 10 - 100
16 of this chapter is guilty of a misdemeanor, and upon conviction is
17 punishable by a fine of not less than \$100 nor more than \$2,000. Each
18 transaction or violation constitutes a separate offense under this
19 section.

20 Sec. 03.18.100. DEFINITIONS. In secs. 10 - 100 of this chapter

21 (1) "board" means Vegetable Marketing Advisory Board;

22 (2) "director" means the director of the division of agri-
23 culture, Department of Natural Resources;

24 (3) "handler" means a person who sells, markets or distributes
25 vegetables to a person other than the ultimate consumer, and includes
26 a producer who performs these functions;

27 (4) "producer" means a person who produces vegetables for
28 market;

29 (5) "vegetable" means fresh vegetables and potatoes grown for

market in Alaska.

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