

**Effective 7/1/2017**

## **Chapter 8 Agricultural Fair Trade Act**

### **4-8-101 Title.**

This chapter is known as the "Agricultural Fair Trade Act."

Renumbered and Amended by Chapter 345, 2017 General Session

### **4-8-102 Purpose declaration.**

- (1) The Legislature finds and declares that in order to preserve the agricultural industry of this state it is necessary to protect and improve the economic status of persons engaged in the production of products of agriculture.
- (2) To carry out the policy described in Subsection (1), the Legislature determines it necessary to regulate the production and marketing of such products and to prohibit unfair and injurious trade practices.
- (3) This chapter shall be liberally construed.

Renumbered and Amended by Chapter 345, 2017 General Session

### **4-8-103 Definition.**

As used in this chapter, "products of agriculture" means any product useful to the human species that results from the application of the science and art of the production of plants, minerals, and animals.

Renumbered and Amended by Chapter 345, 2017 General Session

### **4-8-104 Department functions, powers, and duties.**

The department shall exercise the following functions, powers, and duties, in addition to those specified in Chapter 1, General Provisions:

- (1) perform general supervision over the marketing, sale, trade, advertising, storage, and transportation practices, used in buying and selling products of agriculture in Utah;
- (2) conduct and publish surveys and statistical analyses with the department's own resources or with the resources of others through contract, regarding:
  - (a) the cost of production for products of agriculture, including transportation, processing, storage, advertising, and marketing costs;
  - (b) market locations, demands, and prices for such products; and
  - (c) market forecasts;
- (3) assist and encourage producers of products of agriculture in controlling current and prospective production and market deliveries in order to stabilize product prices at prices that assure reasonable profits for producers and at the same time ensure adequate market supplies;
- (4) actively solicit input from the public and from interested groups or associations, through public hearings or otherwise, to assist in making fair determinations with respect to the production, marketing, and consumption of products of agriculture;
- (5) make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, in regard to "Utah's Own," a program dedicated to the promotion of locally produced products of agriculture.

Renumbered and Amended by Chapter 345, 2017 General Session

**4-8-105 Unlawful acts specified.**

A person engaged in the production, processing, handling, marketing, sale or distribution of products of agriculture may not:

- (1) discriminate in price between two or more producers with respect to products of agriculture of like grade and quality;
- (2) use any brand, label, container, or designation on products of agriculture not authorized by the department;
- (3) promote or advertise the price of any product of agriculture that is required to be graded without displaying the grade of such product with prominence equal to that of the price; or
- (4) make or permit the use of any false or misleading statement on any label or stencil affixed to a container or package containing products of agriculture or in any promotion or advertisement of such products.

Renumbered and Amended by Chapter 345, 2017 General Session

**4-8-106 Procedure for enforcement -- Notice of agency action -- Cease and desist order -- Enforcement -- Judicial review.**

- (1)
  - (a) Whenever the department has reason to believe that a person has, or is, engaged in the violation of this chapter, it shall issue a notice of agency action.
  - (b) If the commissioner, or a hearing officer designated by the commissioner, determines by a preponderance of the evidence that any person named in the complaint has engaged, or is engaging, in an act that violates this chapter, the officer shall:
    - (i) prepare written findings of fact; and
    - (ii) issue an order requiring the person to cease and desist from the illegal activity.
- (2) The department may petition any court of competent jurisdiction for enforcement of its cease and desist order.
- (3) Any person who is subject to a cease and desist order may obtain judicial review.
- (4) The attorney general's office shall represent the department in any original action or appeal begun under this section.

Renumbered and Amended by Chapter 345, 2017 General Session

**4-8-107 Defense to claim of illegal activity.**

No person who acts in compliance with any rule adopted under authority of this chapter shall be considered to be engaged in any illegal conspiracy or combination in restraint of trade or to be acting in furtherance of any illegal purpose.

Renumbered and Amended by Chapter 345, 2017 General Session