

Effective
immediately.

SEC. 2. This act is necessary for the immediate support of the state government and its existing public institutions, and shall take effect immediately.

Passed the Senate February 14, 1935.

Passed the House March 7, 1935.

Approved by the Governor March 12, 1935.

CHAPTER 78.

[S. S. B. 155.]

AGRICULTURAL ADJUSTMENT ACT.

AN ACT declaring the existence of a state and national agricultural emergency; declaring the policy of the legislature; providing for the regulation and control of the production, storage, transportation, industrial advertising, merchandising, price and distribution of agricultural commodities; approving and adopting the provisions of the National Agricultural Adjustment Act and any marketing agreement or license approved or prescribed by the Secretary of Agriculture of the United States; defining marketing agreements; regulating the purchase of agricultural commodities by the state or its subdivisions; establishing standards of fair competition; empowering the Director of Agriculture, with the approval of the Governor, to adopt or prescribe marketing agreements, to make rules and regulations to control the production, storage, transportation, industrial advertising, merchandising, sale and distribution of agricultural commodities, and to issue, suspend or revoke licenses licensing persons handling or processing agricultural products; designating the persons entitled to licenses; granting jurisdiction to courts for the enforcement of this act and marketing agreements approved or prescribed hereunder; making it unlawful for any person to engage in handling, retailing, processing or wholesaling agricultural products without a license; fixing license fees; making an appropriation for the administration of this act; defining agricultural commodities; and declaring that this act shall take effect immediately.

Be it enacted by the Legislature of the State of Washington:

SECTION 1. That the present acute economic emergency being in part the consequence of a severe and increasing disparity between the prices of agri-

Economic
emergency.

cultural and other commodities and the increased cost of production of agricultural products, which disparity has largely destroyed the purchasing power of producers for industrial products, has broken down the orderly exchange of commodities and has seriously impaired the agricultural assets supporting the state credit structure, it is hereby declared that these conditions in the basic industry of agriculture have affected agriculture with a public interest, burdened and obstructed commerce in such commodities, and render imperative the immediate enactment of this act.

Immediate
enactment.

SEC. 2. It is hereby declared to be the policy of the legislature:

Policy of
Legislature.

a. To establish and maintain such balance between the production and consumption of agricultural products, and the marketing thereof, as will reestablish the net prices to producers at a level that will give agricultural products a net purchasing power with respect to articles that producers buy, equivalent to the net purchasing power of agricultural products in the basic period. The basic period in the case of all agricultural products shall be the pre-war period, August, 1909-July, 1914: *Provided*, That the basic period for fruits shall be the period, August, 1909-April, 1917.

Net prices
to producers.

Basic
periods.

b. To approach such equality of purchasing power by a gradual correction of the present inequalities therein at as rapid a rate as is deemed feasible in view of the current consumptive demand in domestic markets, and to increase such consumptive demands and to prevent over production.

Equality of
purchasing
power.

c. To protect the consumers' interest by readjusting agricultural production at such level as will not increase the percentage of the consumers' retail expenditures for agricultural products which is returned to the producer above the percentage which was returned to the producer in the basic period,

Protection of
consumers'
interest.

with due allowance for the increased cost of production of agricultural products.

Cooperation with national government.

d. It is hereby declared to be the policy of this state to cooperate with and assist the national government in promoting the rehabilitation of agriculture and in eliminating the causes of the collapse of agricultural purchasing power, and to that end to bring about the formulation of marketing agreements which may be adopted or prescribed by the secretary or by the director, regulating producers, distributors, marketing agents, retailers, wholesalers, processors and handlers of agricultural products or subdivisions thereof and their enforcement in this state. Any such marketing agreement may contain provisions for assessments to be paid by the branch of the agricultural industry covered or affected by such marketing agreement sufficient to pay the expenses of carrying such marketing agreement into effect and to pay for educational work, and to be so levied that said assessment shall be equitable and fair.

Marketing agreements.

Provision for assessments.

e. No marketing agreement or rule or regulation shall fix prices at which agricultural products shall be sold to the consumer until there has been held, in the territory to be effected by such price fixing, public hearings to which the general public is invited; and the producers, distributors and consumers shall have equal representation upon all advisory committees formed under any such marketing agreement which consider, recommend or advise the director upon the question of retail price fixing.

Public hearings.

SEC. 3. a. It is hereby further declared to be the policy of the legislature to increase the consumption of Washington grown agricultural products and to that end, and for other purposes set out in this act, the director, with the approval of the governor, may provide, in any marketing agreement covering any agricultural product, or competing commodity,

Increasing of consumption Washington grown agricultural products.

produced or sold within this state, for assessments to be levied upon such products and manner of collecting such assessments. Failure by any person to comply with assessment regulations specified in any marketing agreement shall be construed to be a violation of this act.

Assessments.

Violation.

b. Such assessments shall be used (1) to pay the cost and expense of administering and enforcing the marketing agreement; (2) to advertise such Washington agricultural products; (3) to obtain relief from discriminatory freight rates on such agricultural products; (4) to obtain relief from competing agricultural products of foreign countries, by securing reasonable tariffs on such competing products; (5) to secure the passage or promulgation of laws or rules and regulations by the United States Congress, and/or the respective Federal departments and bureaus, providing for the inspection and certification at the point of shipment as to the purity and grade of Washington agricultural products; (6) to carry on, and have carried on, scientific researches to develop further and greater uses of such products as food and therapeutic agencies, and (7) to do such other things as will tend to effectuate the purposes of the respective marketing agreements.

Use of assessments.

c. Any such marketing agreements shall provide for committees to administer such marketing agreements, under the order and direction of the director and subject to his supervision and control. The director shall, by order, provide for the election of the grower and producer members of such committees by the growers and producers affected by such agreements, and the election of the wholesaler, processor, retailer and handler members of such committees by the wholesalers, processors, retailers and handlers of such products, in such manner as will insure a fair and impartial election of bona fide

Committee to administer marketing agreement.

Election of members.

members of such industry and who shall fairly represent all branches of the industry affected by the agreements. The consumer members of committees shall be appointed by the governor.

Governor appoints.

SEC. 4. When used in this act, the following terms shall, unless the context otherwise indicates, have the following respective meanings:

Definitions:

a. The word "secretary" shall mean the secretary of agriculture of the United States of America.

"Secretary."

b. The word "handling" shall mean the act or operation of buying, warehousing, storing, preparing for market, acting as sales or purchasing agent, broker or factor, manufacturing, processing or distributing agricultural commodities for others or for profit, hire or compensation and the person who ships or initiates the shipping operation of any agricultural commodity, whether as owner, agent or otherwise, shall be deemed to be "handling" such commodity.

"Handling"

c. The word "governor" shall mean the governor of the State of Washington.

"Governor."

d. The word "director" shall mean the director of agriculture of the State of Washington, or his designated agent.

"Director."

e. The word "person" shall mean and include individuals, corporations, associations, cooperatives, trusts and partnerships existing under or authorized by the laws of the United States of America or of this state or of any other state, territory, or possession of said United States, or of any foreign country.

"Person."

f. The words "National Agricultural Adjustment Act" shall mean the act passed by Congress, known by the short title of the "Agricultural Adjustment Act," approved May 12, 1933, and its amendments.

"National Agricultural Adjustment Act."

g. The words "marketing agreement" shall mean any marketing agreement approved or pre-

"Marketing agreement."

scribed by the director or by the secretary, or any license imposed under the National Agricultural Adjustment Act, and any rule, regulation or marketing agreement which the director may adopt, prescribe or promulgate, in conformity with the provisions and authority of this act.

h. The word "license" shall mean any license issued by the secretary or the director. "License."

i. The word "written" shall include printed or typewritten. "Written."

j. Words in this act, unless the context otherwise indicates, in the present tense, include other tenses thereof as well as the present; in the masculine gender include the feminine and neuter; in the neuter gender include the masculine and feminine; in the singular number include the plural and in the plural include the singular. Tenses.
Genders.
Number.

SEC. 5. a. The provisions of any marketing agreement approved or prescribed by the secretary, in so far as they are not in conflict with any marketing agreement adopted or prescribed by the director, and any marketing agreement adopted or prescribed by the director for any agricultural commodity shall be considered as the standard of fair competition in all transactions within this state. The violation of such standard by any person within this state shall be deemed the use of unfair methods of competition. The use by any person of unfair methods of competition, as defined by this act or any marketing agreement, shall be unlawful and contrary to the public policy and welfare of this state, and any person violating any provision of such marketing agreement approved or prescribed by the secretary, or such marketing agreement approved or prescribed by the director shall be guilty of a violation of this act. Marketing agreement, standard of fair competition.

Violations.

b. In order to further aid the purposes and policy of the National Agricultural Adjustment Act

Letting of contracts.

and this act while this act is in effect, the governing body of any political subdivision, municipal corporation or districts and any public officer or person charged with the letting of contracts for (1) the purchase and/or sale of agricultural products and their derivatives, or (2) for the purchasing of agricultural products and their derivatives for public use, shall let such contracts only to those who agree in and by the terms of such contract to use or supply only articles, materials and supplies produced, manufactured or supplied by a person who is a party to a marketing agreement approved or prescribed by the secretary or the director pursuant to the terms of the national agricultural adjustment act or of this act.

Requirements.

Prosecutions in any county of state.

SEC. 6. a. Any prosecution brought under this act may be instituted or brought in any county in this state in which the defendant, or any of the defendants, resides, or in which such unlawful act was committed or in which the defendant, or any of the defendants, has his principal place of business.

Jurisdiction of superior courts.

b. The several superior courts of the State of Washington are hereby invested with jurisdiction to prevent and restrain violations of this act or any marketing agreement adopted or prescribed by the director or by the secretary.

Powers of director with governor's approval.

SEC. 7. In order to effectuate and carry out the declared policy of this state the director, with the approval of the governor, is hereby authorized and empowered (a) to make rules and regulations for the regulation and control of production, storage, transportation, merchandising, sale and distribution of agricultural commodities or products thereof, or competing commodities and products thereof, and to prevent unfair price cutting or dumping practices and (b) to adopt, prescribe or promulgate mar-

keting agreements regulating persons engaged in the producing, handling, manufacturing, processing, dealing in or selling agricultural commodities, or products thereof, in this state, providing for control of production, the increase of consumption, and for the regulation of the handling, transportation, merchandising, sale and distribution of such agricultural commodities. No marketing agreement shall be approved, prescribed or revoked by the director except upon the petition of a majority of the producers controlling not less than sixty-five per cent (65%) of the products by volume and fifty-one (51%) per cent of the producers by number to be affected by the marketing agreement; the said petition may be made in writing by the industry or through delegates elected at a convention publicly called for that purpose: *Provided, however,* That committees elected as provided in section 3 subsection (c) hereof, shall be construed to represent the wishes and opinion of the industry, and the director shall be guided by the recommendations of such committee on all matters concerning the issuance of rules and regulations under any marketing agreement, approved in the manner herein specified, governing prices paid to producers or to be paid by distributors, processors, wholesalers, retailers, handlers or consumers, or affecting the control of production by basic averages, or relating to any other matter mentioned in subsection (a) hereof; such rules or regulations shall be altered, amended or revoked by the director upon petition of sixty-five per cent (65%) of the industry; in any action, civil or criminal, under this act a certified copy of any marketing agreement, rule, regulation or order approved or promulgated under this act shall be received as prima facie evidence that the same was properly approved or promulgated under this act and of the facts stated therein. The making of such agreement

Approving, prescribing, or revoking of marketing agreement.

Petition of producers.

Recommendations of committee.

Altering of rules and regulations upon petition of 65% of industry.

Prima facie evidence.

shall not be held to be a violation of any statute of this state. (c) Any such rules, regulations or marketing agreements shall contain provisions, whenever necessary, to provide that the branch of the agricultural industry to which they pertain shall pay all expenses of their administration and enforcement: *Provided*, That no such marketing agreement shall be and remain in force after the termination of this act. (d) The director is further authorized and empowered, with the approval of the governor, to enter into marketing agreements with officers or authorities charged with the administration of marketing agreements in other states having agricultural adjustment acts: *Provided*, Such agreements shall not be in conflict with this act and shall tend to carry out the declared policies of this act. (e) The director shall not adopt or prescribe any marketing agreement or promulgate any rule or regulation unless the director shall find, after investigation and public hearing, held upon due and reasonable notice to the industry or the branch thereof involved, and the general public, that such marketing agreement, rule or regulation will aid in the accomplishment of the declared purposes of this act, and that one or more of the following factual situations exist: (1) That the net purchasing power of the grower or producer of such agricultural products is less than during the basic period; (2) That over production or under consumption exists; (3) That the financial stability of the industry or some material part thereof is imperiled; (4) That the grower or producer thereof is not receiving a return therefrom exceeding the reasonable cost of production and maintenance of his farm or other producing unit; (5) That the grower or producer is not receiving a net return from his operations; (6) That obstructions exist to the free flow to the market of the agricultural products to be affected by the pro-

Provision
for expense.

Duration of
agreement.

Further
powers of
director.

Investigation
and public
hearing.

Factual
situations
existing.

posed marketing agreement; (7) That the grower or producer is not receiving an adequate portion of the consumer's dollar; (8) That excess charges are imposed for financing, preparing for market, storage, transportation, selling or brokerage against such agricultural products or (9) That the consumer is required to pay for such agricultural products sums out of proportion to the amount returned to the grower or producer thereof.

SEC. 8. It shall be the duty of the director to issue licenses to any person handling agricultural commodities, upon application and the payment of a license fee.

Issuance of licenses.

SEC. 9. The director may revoke or suspend, upon hearing duly had, the license of any person violating the provisions of any marketing agreement or this act. If the director shall find that any licensee has violated the provisions of any marketing agreement or this act, he shall cause a notice to be served upon such licensee, in writing, setting forth the provisions of the marketing agreement or of this act which the licensee is charged with violating, and shall set the date, and such date shall be contained in such notice, upon which a hearing will be had to determine whether or not the licensee has violated any such provision, which date shall not be less than ten days and not more than twenty days from the date such notice is served. Such hearing may be continued from time to time at the discretion of the director. Upon hearing thereof the evidence submitted shall be reduced to writing. If, after all of the evidence has been introduced, the director shall be satisfied that the licensee has violated the provisions of any marketing agreement or of this act, it shall be his duty to revoke or suspend such license for such period as the director may deem proper.

Revoking or suspending of licenses.

Hearing.

Oaths and
subpoenas.

Witness
fees.

Attendance
of witnesses.

SEC. 10. a. In any proceeding under this act the director may administer oaths and issue subpoenas requiring the presence and testimony of any person whomsoever within the State of Washington to give testimony at such hearing. Any such person shall be entitled to the same witness fees as witnesses in the superior courts of the State of Washington. (b) In any proceeding instituted by the director to suspend or revoke a license, the licensee, upon request, shall be entitled to the issuance of subpoenas, by the director, requiring the attendance of witnesses at such hearing, and in the event that such licensee prevails on such hearing or any review thereof, he shall be entitled to reimbursement of such expenses, not exceeding, however, the rate established in actions tried in the superior courts of the State of Washington. (c) Any hearing held under this act to suspend or revoke a license shall be held in the county in which such licensee has his principal place of business, or, at the discretion of the director, such hearing may be held in the county in which the alleged violations occurred, at a place to be designated by the director in the notice. (d) No testimony given by any licensee in any hearing held to suspend or revoke a license shall ever be used against such licensee in any criminal prosecution.

Review by
certiorari in
superior
court.

SEC. 11. a. Any ruling or order made by the director suspending or revoking any license may be reviewed by certiorari in the superior court of the county in which the hearing thereon was held within ten (10) days of the date notice in writing of the director's order revoking or suspending such license has been served upon him.

b. The acts of the director in adopting or prescribing any marketing agreement or rule or regulation may be reviewed by any interested party by certiorari in any superior court of the State of

Washington in any county in which a substantial part of the industry affected by such marketing agreement, rule or regulation, is transacted, within fifteen (15) days from and after the filing of an original copy of such marketing agreement, rule or regulation in the office of the secretary of state, as hereinafter provided.

SEC. 12. a. Every marketing agreement, rule or regulation adopted or prescribed by the director shall be approved, in writing, by the governor of the State of Washington and filed in the office of the secretary of state five (5) days before the same shall become effective.

Agreements,
rules and
regulations
made by
director
must be
approved by
governor.

b. An original copy of all marketing agreements, rules or regulations that have been heretofore adopted or prescribed by the director, with the approval of the governor, under and by virtue of chapter 12 of the Laws of the Extraordinary Session of 1933-1934, shall be filed with the secretary of state within thirty (30) days of the effective date of this act.

SEC. 13. It shall be unlawful for any person to engage in handling, processing, wholesaling or retailing any agricultural product without first having obtained a license: *Provided, however,* That no person handling exclusively agricultural products not included in any marketing agreement shall be required to secure a license. Any person violating the provisions of this act shall be guilty of a misdemeanor, and each day during which the violation continues shall constitute a separate offense.

License.

Violation.

SEC. 14. It shall be the duty of any person engaged in handling, wholesaling or processing any agricultural products to furnish a report to the director upon request, in writing, showing the variety, volume and quality of agricultural products processed, sold, bought or handled by him, and the

Report.

price paid for such product, and the price at which sold, and furnish such other information as the director may require from time to time.

Annual
license fee.

SEC. 15. a. Every person wholesaling, retailing, processing or handling any agricultural product, in this state, doing an annual gross business of not to exceed fifteen thousand dollars shall pay an annual license fee of two dollars. Every such person doing an annual gross business in excess of fifteen thousand dollars shall pay an additional fee of one dollar for each two thousand dollars of gross receipts in excess of fifteen thousand dollars; no fee however to exceed two hundred and fifty dollars. Any person who conducts such business at more than one location shall obtain a separate license for each such location. All license fees shall be paid to the director and disbursed by him to the treasurer of the State of Washington.

Expenses not
to exceed
receipts.

b. In no case shall the expenses for administering this act exceed the receipts from licenses collected under this act: *Provided*, That the proceeds from licenses shall be used for administering this act and all expenses of administering and enforcing any marketing agreement shall be raised and provided for by assessments to be paid by the industry, or that part thereof that is affected by such marketing agreement.

Appropriation.

SEC. 16. There is hereby appropriated out of any money in the treasury of the State of Washington, not otherwise appropriated, the sum of one hundred and fifty thousand dollars (\$150,000.00) to be available to the director for administrative expenses under this act, but in no case shall such expenses exceed the actual receipts from licenses heretofore or hereafter collected under this act or under chapter 12 of the Laws of the Extraordinary Session 1933-1934.

SEC. 17. As used in this act, the term "agricultural commodity" or "agricultural product" means dressed or cured meats or the products thereof, poultry, eggs, fruit, hops, vegetables, milk, nuts, honey, nursery stock, that branch of the oyster industry known as Pacific (*Ostrea gigas*) oyster, sugar, and the products or by-products therefrom; and all horticultural and viticultural crops; and all crops raised from or produced on the soil and any regional or market classification, type or grade thereof, and any commodity substantially manufactured or produced from the same, and any product competing therewith as a substitute: *Provided, however,* That the term "agricultural commodity" or "agricultural product" shall not include grain of any kind.

Defining "agricultural commodity," or "agricultural product."

SEC. 18. a. Any person selling to the consumer agricultural products is hereby defined as a retailer.

Retailer.

b. Any person selling as agent, owner or otherwise, to wholesalers, jobbers, brokers, retailers or handlers, processed or unprocessed agricultural products is hereby defined as a wholesaler, except a grower or producer, as hereinafter defined.

Wholesaler.

c. Any person manufacturing or processing any agricultural product and selling the same as agent, owner or otherwise, to wholesalers, handlers, brokers, retailers or processors is hereby defined as a processor.

Processor.

d. Any person engaged in the actual growing, raising or producing any agricultural product is hereby defined as a grower or producer.

Grower or producer.

e. Any person dealing with or handling any agricultural product who is not a retailer, wholesaler, processor, grower or producer, as hereinabove defined, is hereby defined as a handler.

Handler.

SEC. 19. All marketing agreements, rules and regulations heretofore adopted or prescribed by the

Existing agreements and rules adopted.

director, under and by virtue of chapter 12, Laws of Extraordinary Session 1933-1934, are hereby adopted, constituted and declared to be operative and to remain in force as the rules, marketing agreements and regulations of the director under this act until such time as they or any of them are modified, amended or revoked by the director, as herein provided, and all licenses heretofore issued by the director under said act for the year 1935 shall continue in effect and be construed to be licenses under this act: *Provided, however,* That if any license has been issued to a licensee who conducts his business in more than one location, any license heretofore issued shall apply to only one of such locations: *Provided further,* That nothing in this act shall be construed as regulating or preventing the practice of "Welcome Wagon Service" in incorporated cities and towns in the State of Washington.

Licenses for
different
locations.

Existing
rights and
liabilities
not affected.

SEC. 20. Nothing herein contained shall be construed as affecting any existing rights or liabilities acquired or incurred under chapter 12, Laws of Extraordinary Session 1933-1934, or any of the sections thereof, or under any marketing agreement adopted or prescribed by the director in pursuance thereof, or any rules or regulations promulgated by the director, approved by the governor, or the validity of any act done or proceedings had under and by virtue of said act or marketing agreement or rules and regulations, or as affecting any action or proceedings instituted under said act or section or marketing agreements or rules or regulations.

Partial
invalidity.

SEC. 21. If any section, sentence, clause or part of this act is for any reason held to be unconstitutional, such decision shall not affect the remaining portions of this act. The legislature hereby declares that it would have passed this act and each section, sentence, clause or part thereof, irrespective of the

fact that one or more sections, sentences, clauses or parts hereof be declared unconstitutional.

SEC. 22. This act shall be known and cited as the "Washington Agricultural Adjustment Act." Name of act.

SEC. 23. This act is necessary for the immediate preservation of public peace, health and safety, for the preservation of the financial structure of the state for the preservation of agriculture and to prevent a financial crisis, and for the support of the state government and its existing institutions, and shall take effect immediately. This act shall terminate and cease to be in effect on and after midnight December 31, 1937. Effective immediately.

Date of termination of act.

Passed the Senate February 25, 1935.

Passed the House March 5, 1935.

Approved by the Governor March 13, 1935.

CHAPTER 79.

[S. B. 323.]

COLLECTION AND PAYMENT OF TAXES.

AN ACT relating to taxation; extending the time within which rebates shall be allowed in the payment of taxes for the year 1934 due and payable in 1935; modifying the provisions of chapter 30, Laws of 1935, relating to such rebates, and declaring that the act shall take effect immediately.

Be it enacted by the Legislature of the State of Washington:

SECTION 1. That the provisions of chapter 30, Laws of 1935, allowing a rebate of 3% to all taxpayers who shall pay the tax on real or personal property in one payment and in full on or before the 15th day of March next prior to the date of delinquency be modified for the year 1935 and that such taxpayers shall be allowed the said rebate of 3% upon full payment of the 1934 taxes on or before the 15th day of May, 1935.

Modification of ch. 30, Laws 1935.