

CHAPTER 105**PAYMENT OF DUES****§1090. Findings and purpose**

The Legislature finds and declares that the agricultural industry as a whole is of significant economic and social importance to the State of Maine. The Legislature further finds and declares that the agricultural industry is subject to unique financial difficulties. Such difficulties include instability of prices, the general inflexibility of demand for farm products, rising costs to producers, dealers and processors, and the vagaries of nature. [PL 1971, c. 428 (NEW).]

Such financial difficulties have a direct effect on a significant portion of the people of the State who are not directly involved in agricultural activities or industries. [PL 1971, c. 428 (NEW).]

The Legislature further finds and declares that the relationships between agricultural producers and dealers or processors are also unique. The normal labor relationship of employer and employee does not ordinarily apply in the agricultural industry. In view of these facts, the Legislature has determined that it is in the best interests of those engaged in agriculture and agriculturally related industry, and of the people of the entire State to regulate the relationship of producers to dealers and processors by encouraging and facilitating the formation and operation of cooperative agricultural marketing associations. The Legislature in enacting this legislation intends to exercise the police power of the State to benefit the health and welfare of the agricultural industry and the people of the State. [PL 1971, c. 544, §18-A (AMD).]

SECTION HISTORY

PL 1971, c. 438 (NEW). PL 1971, c. 544, §§18-A (AMD).

§1091. Dues**(REPEALED)****SECTION HISTORY**

PL 1971, c. 438 (NEW). PL 1987, c. 384, §1 (AMD). PL 2003, c. 329, §1 (RP).

§1091-A. Dues and fair share fees

1. Definitions. As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

A. "Association" has the same meaning as in Title 13, section 1774, subsection 3. [PL 2003, c. 329, §2 (NEW).]

B. "Fair share fee" means a fee deducted by a dealer or processor from a producer who is not an association member. [PL 2003, c. 329, §2 (NEW).]

[PL 2003, c. 329, §2 (NEW).]

2. Association dues. When a member of an association makes a written assignment of dues to that association, those dues must be paid out of funds due or to become due to that member for any farm product produced or to be produced by that member or for any services performed or to be performed by that member in the production of farm products. A person who accepts or receives the product or services from the member is bound by that assignment after receiving written notice from the association or from the member, and that person shall withhold the assigned dues from amounts payable by that person to the member thereafter during the period of the assessment.

[PL 2003, c. 329, §2 (NEW).]

3. Fair share fees for contracts entered into after the association agreement. A nonmember producer who supplies farm products to a dealer or processor subject to collective bargaining and who enters into a preseason contract with the dealer or processor after the association has signed an agreement with that dealer or processor must be assessed a fair share fee equal to 50% of the amount charged to association members as dues. The dealer or processor shall withhold the fair share from the nonmember in the same manner as member dues are withheld. The nonmember shall make a written assignment directing the dealer or processor to have the fair share fee:

A. Remitted to the association and used to defray the costs incurred by the association as the recognized collective bargaining unit in fulfilling its duty to represent producers in their relations with the dealer or processor; or [PL 2003, c. 329, §2 (NEW).]

B. Deposited in a fund established by the dealer or processor for awarding educational scholarships to contributing nonmembers and association producers. [PL 2003, c. 329, §2 (NEW).]
[PL 2003, c. 329, §2 (NEW).]

4. Fair share fees for contracts entered into before the association agreement. Except as provided in subsection 5, a dealer or processor subject to collective bargaining may not assess or withhold a fair share fee from a nonmember producer who enters into a preseason contract to supply farm products to that dealer or processor before the association has signed an agreement with that dealer or processor unless the nonmember producer directs the processor or dealer to do so in accordance with this subsection.

A nonmember producer may make a written assignment directing the dealer or processor to withhold a fair share fee equal to 50% of the amount charged to association members as dues for deposit in a fund established by the dealer or processor for awarding educational scholarships to contributing nonmembers and association producers.

[PL 2003, c. 329, §2 (NEW).]

5. Changes in nonmember contract. The dealer or processor shall withhold a fair share fee from a nonmember in accordance with subsection 3 when:

A. The nonmember entered into a preseason contract to supply farm products to a dealer or processor before the association signed an agreement with that dealer or processor; and [PL 2003, c. 329, §2 (NEW).]

B. The nonmember consents to a change or changes in that nonmember's contract after the association has signed an agreement with that dealer or processor and the change or changes provide an increase in contract value. [PL 2003, c. 329, §2 (NEW).]

[PL 2003, c. 329, §2 (NEW).]

SECTION HISTORY

PL 2003, c. 329, §2 (NEW).

§1092. Assignment

No provision that is inserted in any contract or other instrument that is prepared by a dealer or processor that makes an assignment of the dues or fair share fees described in section 1091-A ineffective is valid. [PL 2003, c. 329, §3 (AMD).]

An assignment of dues or fair share fees may not exceed 1% of the total value of the product or services delivered by the member to the dealer or processor. [PL 2003, c. 329, §3 (AMD).]

SECTION HISTORY

PL 1971, c. 438 (NEW). PL 1987, c. 384, §2 (AMD). PL 2003, c. 329, §3 (AMD).

§1093. Remittance of dues and fair share fees; accounting

1. Sale of farm products. Subject to subsection 3, a dealer or processor shall, on or before the 15th day of each month, pay to an association all dues and fair share fees assigned to the association pursuant to section 1091-A with respect to farm products received from members and nonmembers by the dealer or processor during the preceding calendar month. At the time of each monthly payment of dues and fair share fees, the dealer or processor shall provide to the association a summary statement showing, for each member and nonmember, the quantity of farm products received, the payment due to the member and nonmember for those farm products prior to the deduction of dues or fair share fees and the amount of dues or fair share fees deducted therefrom pursuant to the assignment. [PL 2003, c. 329, §4 (AMD).]

2. Performance of farm services. Subject to subsection 3, a dealer or processor shall, on or before the 15th day of each month, pay to an association all dues and fair share fees assigned to the association pursuant to section 1091-A with respect to services performed by members and nonmembers in the production of farm products that were received by the dealer or processor during the preceding calendar month. At the time of each monthly payment of dues and fair share fees, the dealer or processor shall provide to the association a summary statement showing, for each member and nonmember, the quantity of farm products for which services were performed and the amount of dues or fair share fees deducted therefrom pursuant to the assignment. [PL 2003, c. 329, §4 (AMD).]

3. Flat rate dues and fair share fees deductions. In the event that the dues and fair share fees assigned to the association pursuant to section 1091-A are not calculated on the quantity of farm products sold or tendered by members and nonmembers to the dealer or processor, the dealer or processor shall pay the dues and fair share fees to the association according to the payment schedule contained in the assignment. No payment schedule may require the payment of assigned dues and fair share fees more frequently than once a month. [PL 2003, c. 329, §4 (AMD).]

SECTION HISTORY

PL 1971, c. 438 (NEW). PL 1987, c. 384, §3 (RPR). PL 2003, c. 329, §4 (AMD).

§1094. -- liability

Any dealer or processor who pays any dues to an association pursuant to the assignment of dues governed by this chapter shall not be liable for such sums upon any seed lien, farm laborer's lien or any other lien or encumbrance which has priority by law upon the proceeds of the farm crop or product. Any lienholder who has priority upon the proceeds from such farm crop or product whose lien remains unsatisfied shall have the right to receive all sums paid to any association pursuant to the assignment of dues. Such association shall remit all dues paid pursuant to the assignment to the priority lienholder upon the receipt of notice and proof that a valid prior lien exists against such farm crop or product. [PL 1971, c. 438 (NEW).]

SECTION HISTORY

PL 1971, c. 438 (NEW).

§1095. -- deduction

Any dealer or processor may deduct a sum not to exceed 2% of the total dues to be paid to an association for administrative expenses incurred by the payment of such dues under the assignment. [PL 1971, c. 438 (NEW).]

SECTION HISTORY

PL 1971, c. 438 (NEW).

§1096. Violation; penalties

1. Civil violation. Failure of a dealer or processor to pay assigned dues to an association within the time required by section 1093 is a civil violation for which a forfeiture of double the amount of the assigned dues that were not timely paid to the association shall be adjudged. The court shall order payment of the forfeiture to the association. In the event of a willful violation, the dealer or processor shall be subject to an additional civil penalty, payable to the State, of not more than \$1,000 for a first violation and not more than \$2,000 for each subsequent violation. The forfeiture and civil penalty created by this subsection are recoverable by the commissioner in a civil action.

[PL 1987, c. 384, §4 (NEW).]

2. Private action. Any dealer or processor that fails to pay assigned dues to an association within the time required by section 1093 is liable to that association in a civil action for double the amount of the assigned dues that were not timely paid to the association, plus reasonable attorneys fees, provided that the filing of a civil violation action, pursuant to subsection 1, shall bar the filing of a private action under this subsection arising from the same events of nonpayment.

[PL 1987, c. 384, §4 (NEW).]

SECTION HISTORY

PL 1987, c. 384, §4 (NEW).

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