

HOUSE BILL No. 2659

By Special Committee on Agriculture

1-22

AN ACT concerning agriculture; relating to agricultural contracts; unfair and unlawful actions; prescribing penalties for violations thereof.

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

Section 1. (a) As used in this section:

(1) "Animal feeding operation" means a lot, corral, building or other area in which livestock is confined and fed. An animal feeding operation does not include a livestock market;

(2) "commodity" means livestock, raw milk or a crop;

(3) "confinement feeding operation" means an animal feeding operation in which livestock is confined to areas which are totally roofed;

(4) "contract crop field" means farmland located in this state where a crop is produced according to a production contract by a contract producer who owns or leases the farmland;

(5) "contract input" means a commodity or an organic or synthetic substance or compound that is used to produce a commodity, including but not limited to, any of the following:

(A) Livestock or plants;

(B) agricultural seeds;

(C) semen or eggs for breeding livestock; and

(D) a fertilizer or pesticide.

(6) "contract livestock facility" means an animal feeding operation located in this state in which livestock or raw milk is produced according to a production contract by a contract producer who holds a legal interest in the animal feeding operation. Contract livestock facility includes a confinement feeding operation, an open feedlot or an area which is used for the raising of crops or other vegetation and upon which livestock is fed for slaughter or is allowed to graze or feed;

(7) "contract operation" means a contract livestock facility or a contract crop field;

(8) "contract producer" means a producer who holds a legal interest in a contract operation and who produces a commodity under a production contract. Such producer shall not have ownership of the commodity;

(9) "contractor" means a person who owns a commodity that is produced by a contract producer at the contract producer's contract opera-

1 tion according to a production contract;

2 (10) “crop” means a plant used for food, animal feed, fiber, oil, phar-
3 maceuticals, nutraceuticals or seed, including but not limited to, alfalfa,
4 barley, buckwheat, corn, flax, forage, millet, oats, popcorn, rye, sorghum,
5 soybeans, sunflowers, tobacco, wheat and grasses used for forage or silage;

6 (11) “farmland” means agricultural land that is suitable for use in
7 farming;

8 (12) “livestock” means beef cattle, dairy cattle, poultry, sheep or
9 swine;

10 (13) “open feedlot” means an unroofed or partially roofed animal
11 feeding operation in which no crop, vegetation or forage growth or resi-
12 due cover is maintained during the period that livestock is confined in
13 the operation;

14 (14) “produce” or “production” means to do any of the following:

15 (A) Provide feed or services relating to the care and feeding of live-
16 stock. If the livestock is dairy cattle, then produce includes milking the
17 dairy cattle and storing raw milk;

18 (B) provide for planting, raising, harvesting and storing a crop. Pro-
19 duce includes preparing the soil for planting and nurturing the crop by
20 the application of fertilizers or soil conditioners or pesticides;

21 (15) “producer” means a person who produces a commodity, includ-
22 ing but not limited to, a contract producer. Producer does not include a
23 commercial fertilizer or pesticide applicator, a feed supplier or a veteri-
24 narian, when acting in such capacity; and

25 (16) “production contract” means an oral or written agreement that
26 provides for the production of a commodity or the provision of manage-
27 ment services relating to the production of a commodity by a contract
28 producer. A production contract is executed when it is signed or orally
29 agreed to by each party to the contract or by a person authorized to act
30 on the party’s behalf.

31 (b) In any production contract between a contractor and a contract
32 producer, no contract provision shall:

33 (1) Require the contract producer to accept sick, defective or sub-
34 standard contract inputs; or

35 (2) deny the producer of the ability to address a dispute in the Kansas
36 courts. The production contract may contain a provision to have the op-
37 tion of submitting any dispute arising under a production contract to
38 arbitration.

39 (c) A contractor shall not discourage or prohibit contract producers
40 from associating with other contract producers to address concerns or
41 problems or to collectively negotiate production contract terms. Nothing
42 in this subsection shall be construed to allow disclosure of trade secrets
43 or to require contract producers to disclose personal financial

1 information.

2 (d) Any provision of a production contract which violates a provision
3 of this section is void and unenforceable. This subsection does not affect
4 other provisions of a production contract, including a contract or related
5 document, policy or agreement which can be given effect without the
6 voided provision.

7 (e) A contractor who violates any provision of this section shall be
8 subject to a civil penalty in an amount equal to the amount of actual
9 damages suffered by the contract producer.

10 (f) A contractor who violates any provision of this section shall be
11 guilty of a misdemeanor.

12 (g) A producer who suffers damages because of a contractor's viola-
13 tion of this section may obtain appropriate legal and equitable relief, in-
14 cluding damages, as a suit in common law pursuant to code of civil
15 procedure.

16 (h) In such a civil action against the contractor, the court shall award
17 the contract producer who is the prevailing party, reasonable attorney
18 fees and other litigation expenses.

19 (i) In order to obtain injunctive relief, the contract producer is not
20 required to post a bond, prove the absence of an adequate remedy at law
21 or show the existence of special circumstances, unless the court for good
22 cause otherwise orders. The court may order any form of prohibitory or
23 mandatory relief that is appropriate under principles of equity, including
24 but not limited to, issuing a temporary or permanent restraining order.

25 (j) The attorney general's office or a county or district attorney may
26 enforce this section. In enforcing the provisions of this section, the pros-
27 ecuting attorney may do all of the following: (1) Apply to the district court
28 for an injunction to do all of the following:

29 (A) Restrain a contractor from engaging in conduct or practices in
30 violation of this section; or

31 (B) require a contractor to comply with provisions of this section;

32 (2) apply to district court for the issuance of a subpoena to obtain a
33 production contract for purposes of enforcing this section; and

34 (3) bring an action in district court to enforce penalties provided in
35 subsections (e) and (f).

36 Sec. 2. This act shall take effect and be in force from and after its
37 publication in the statute book.

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