



Arkansas Soybean Promotion Statutes

Ark. Code Ann. §§ 2-20-401 through -409

Current through 2012 Fiscal Sess. and the Nov. 6, 2012 election

§ 2-20-401. Objective

The purpose of this subchapter is to promote the growth and development of the soybean industry in Arkansas by research, extension, promotion, and market development, thereby promoting the general welfare of the people of Arkansas.

§ 2-20-402. Definitions

As used in this subchapter, unless the context otherwise requires:

- (1) "Board" means the Arkansas Soybean Promotion Board created pursuant to this subchapter;
- (2) "Net market price" means:
 - (A) The sales price or value received by a producer for soybeans after adjustments for any premium or discount based on grading or quality factors, as determined by the secretary; or
 - (B) For soybeans pledged as collateral for a loan issued under any price support loan program administered by the Commodity Credit Corporation, the principal amount of the loan;
- (3) "Secretary" means the Secretary of Agriculture of the United States;
- (4) "Soybean Promotion, Research and Consumer Information Act"¹ means the federal Soybean Promotion, Research and Consumer Information Act of 1990, Subtitle E of Title XIX, of the Food, Agriculture, Conservation and Trade Act of 1990, P.L. No. 101-624, as amended from time to time, and any order issued pursuant thereto by the secretary; and
- (5) "United Soybean Board" means the United Soybean Board created by the Soybean Promotion, Research and Consumer Information Act.

§ 2-20-403. Penalties

(a)(1) Any first purchaser or other person required to pay an assessment pursuant to this subchapter who fails to pay any assessment when due shall forfeit a penalty of two percent (2%) of the assessment each month beginning the day following the date the assessment was due.

(2) The penalty shall be paid to the Arkansas Soybean Promotion Board or to its designee, the Director of the Department of Finance and Administration, and shall be disposed of in the same manner as funds derived from the payment of an assessment as provided in this subchapter.

(b) The board or its designee shall collect the penalty levied in this section, together with the delinquent assessment, by any and all of the following methods:

- (1) Voluntary payment by the person liable;
- (2) Legal proceedings instituted in a court of competent jurisdiction; or

(3) Injunctive relief to enjoin any person owing the assessment or penalty from operating his or her business or engaging in business as a buyer or seller of soybeans until the delinquent assessment or penalty is paid.

(c)(1) Any person required to pay the assessment provided for in this subchapter who refuses to allow full inspection of the premises or any book, record, or other document relating to the liability of the person for the assessment imposed or who shall hinder or in any way delay or prevent the inspection shall be guilty of a violation.

(2) Upon conviction, an offender shall be punished by a fine not exceeding five hundred dollars (\$500).

§ 2-20-404. Soybean promotion board

(a) The Arkansas Soybean Promotion Board is created. The board shall be composed of nine (9) producer members appointed by the Governor as follows:

(1)(A) The Arkansas Farm Bureau Federation, Riceland Foods, Inc., Arkansas Soybean Association, and Agriculture Council of Arkansas shall submit the names of five (5) practical soybean producers to the Governor.

(B) The Governor shall appoint three (3) members from the list submitted by the Arkansas Farm Bureau Federation, and two (2) members from the list submitted by each of the other organizations named above to serve on the board.

(C) All of the nine (9) producer members of the board shall be practical producers of soybeans in the State of Arkansas and shall be nominated by their respective organizations;

(2) Each year, not less than thirty (30) days prior to the expiration of the terms of the current board members whose terms expire, the organizations named in subdivision (a)(1)(A) of this section shall submit to the Governor names of two (2) nominees for each position to be filled on the board from the respective organizations, and the Governor shall appoint the new members from each list of nominees; and

(3) Each member selected shall serve for a term of two (2) years and until his or her successor is duly selected as provided in this section.

(b) The members of the board shall meet and organize immediately after their appointment and shall elect a chair, a vice chair, and a secretary-treasurer from the membership of the board, whose duties shall be those customarily exercised by those officers or specifically designated by the board. The principal office of the board shall be located at the office of the Arkansas Farm Bureau Federation, in Little Rock.

(c) The board may establish rules and regulations for its own government and for the administration of the affairs of the board.

(d) The board is designated as the qualified state soybean board to represent the State of Arkansas pursuant to the Soybean Promotion, Research and Consumer Information Act of 1990.¹

§ 2-20-405. Soybean promotion board; authority

(a) The Arkansas Soybean Promotion Board shall have power:

(1) To conduct plans, projects, or activities that are intended to strengthen the soybean industry's position in the marketplace;

(2) To report to the United Soybean Board the manner in which assessments are collected and the procedure utilized to ensure that assessments due are paid;

(3) To collect assessments paid on soybeans marketed within the state and to establish procedures for ensuring compliance with regard to the payment of such assessments; provided, that the Arkansas Soybean Promotion Board may designate the Director of the

Department of Finance and Administration to collect assessments and ensure compliance with regard to the payment of such assessments, subject to such rules as may be promulgated by the Arkansas Soybean Promotion Board and as may be reasonably necessary to comply with the Soybean Promotion, Research and Consumer Information Act of 1990;¹

(4) To remit to the United Soybean Board any assessments paid pursuant to this subchapter and the Soybean Promotion, Research and Consumer Information Act of 1990, minus authorized credits and other required deductions, by the last day of the month following the month in which the assessment was paid, unless the United Soybean Board determines a different date for remittance of assessments;

(5) To pay refunds of assessments as required by the Secretary of Agriculture or as authorized by this subchapter and determined by the Arkansas Soybean Promotion Board;

(6) To establish escrow accounts to be held and administered as special fund accounts by the Treasurer of State, for the payment of refunds in such amounts and for such periods as required by the secretary or as authorized by this subchapter and determined by the board; provided, that interest from such accounts shall accrue to the board to be used for authorized activities;

(7) To furnish the United Soybean Board with an annual report by a certified public accountant or an authorized state agency of all funds remitted to the United Soybean Board;

(8) To receive and certify petitions as provided in § 2-20-406(b)(3) and to conduct a referendum election or elections pursuant to this subchapter or the Soybean Promotion, Research and Consumer Information Act of 1990;

(9) To exempt by resolution a class of persons who purchase one thousand (1,000) or fewer bushels of soybeans in any calendar year from the assessment imposed by § 2-20-406(b)(1);

(10) To contract with the United Soybean Board or other persons to implement plans or projects pursuant to this subchapter and the Soybean Promotion, Research and Consumer Information Act of 1990; and

(11) To take such further action as may be necessary or appropriate to comply with and to administer this subchapter and the Soybean Promotion, Research and Consumer Information Act of 1990.

(b) The Arkansas Soybean Promotion Board shall not use funds collected or received pursuant to this subchapter or the Soybean Promotion, Research and Consumer Information Act of 1990:

(1) To fund plans or projects which make use of any unfair or deceptive acts or practices with respect to the quality, value, or use of any product that competes with soybeans or soybean products; or

(2) To influence any action or policy of the United States Government, any foreign or state government, or any political subdivision thereof; provided, however, that this subdivision

(b)(2) shall not apply to:

(A) The communication to appropriate government officials of information relating to the conduct, implementation, or results of promotion, research, consumer information, and industry information;

(B) Any action designed to market soybeans or soybean products directly to a foreign government or a political subdivision thereof; or

(C) The development and recommendation of amendments to this subchapter or the Soybean Promotion, Research and Consumer Information Act of 1990.

§ 2-20-406. Assessments

(a)(1) Except as otherwise prescribed by regulations approved by the Secretary of Agriculture or the Arkansas Soybean Promotion Board, each person purchasing from, and making payment to, a producer

for soybeans produced by such producer and marketed for commercial use, including, in any case in which soybeans are pledged as collateral for a loan issued under any federal price support loan program, the Commodity Credit Corporation, shall be a first purchaser and shall collect an assessment from the producer, and each producer shall pay such assessment to the first purchaser, at the applicable rate prescribed in this section. Each first purchaser shall remit such assessment to the board or to its designee, the Director of the Department of Finance and Administration. For the purpose of this section, purchases from a producer of soybeans or contracts with a producer for production of soybeans for livestock feed or any other application shall constitute marketing for commercial use.

(2) Any producer marketing processed soybeans or soybean products of that producer's own production to consumers, either directly or through retail or wholesale outlets, or for export purposes, shall remit the assessment as required by this section.

(b)(1) Effective July 1, 1989, there is imposed and levied an assessment at the rate of two cents (2¢) per bushel on all soybeans grown within the State of Arkansas. The assessment shall be deducted from the amount paid the producer at the first point of sale, whether within or without the state, or at the point the soybeans enter into the United States Department of Agriculture loan program.

(2) Notwithstanding subdivision (b)(1) of this section, if an assessment is made pursuant to the Soybean Promotion, Research and Consumer Information Act of 1990¹ upon soybeans grown within the State of Arkansas, then, for so long as such assessment is effective, the assessment imposed and levied pursuant to this section shall be one-quarter percent (0.25%) of the net market price of all soybeans grown within the State of Arkansas. The assessment of one-quarter percent (0.25%) shall not be in addition to the national assessment, but is intended to correspond to the state credit for assessments paid to a qualified state soybean board pursuant to the Soybean Promotion, Research and Consumer Information Act of 1990. If an assessment pursuant to the Soybean Promotion, Research and Consumer Information Act of 1990 shall cease to be effective, then, for so long as no such assessment is made, the assessment imposed and levied pursuant to this section shall be as provided in subdivision (b)(1) of this section.

(3)(A) So long as the assessment on soybeans provided for in this section is two cents (2¢) per bushel, the question of the levy of the two cents (2¢) per bushel assessment on soybeans may be referred to a vote of the soybean producers of the state by the filing of petitions with the board containing signatures of Arkansas soybean producers equal in number to fifteen percent (15%) of all soybean producers in the state.

(B) If the petitions are filed and at the referendum election a majority of the Arkansas soybean producers voting on the question vote against the levy of two cents (2¢) per bushel on soybeans, the assessment shall not thereafter be levied.

(C) Only those soybean producers who produce soybeans in Arkansas in the crop year immediately preceding the referendum election shall be eligible to vote in the election.

(c)(1) The proceeds of the assessment shall be deposited with the Treasurer of State in a special fund to be established for the Arkansas Soybean Promotion Board; provided, that the director may deduct not more than three percent (3%) to cover the cost of collections.

(2) Disbursement shall be made only upon motion duly passed by the board and presented to the Treasurer of State and only for the purposes prescribed in this subchapter.

§ 2-20-407. Reports; required contents

(a) Each person responsible for the collection and remittance of assessments pursuant to § 2-20-406(a) shall report to the Arkansas Soybean Promotion Board such information as may be required from time to time by regulations approved by the Secretary of Agriculture or the board. Such information may include, but not be limited to, the following:

- (1) The number of bushels of soybeans purchased, initially transferred, or which, in any other manner, is subject to the collection of assessment;
- (2) The amount of assessments remitted;
- (3) The basis, if necessary, to show why the remittance is less than the applicable rate of assessment per bushel of soybeans purchased multiplied by the number of bushels purchased; and
- (4) The date any assessment was paid.

(b)(1) Each person who is subject to this subchapter shall maintain and make available for inspection by the secretary, the board or its designee, the Director of the Department of Finance and Administration, such books and records as are necessary to carry out the provisions of this subchapter and the regulations issued thereunder, including such records as are necessary to verify any reports required. Such records shall be retained for at least two (2) years beyond the fiscal period of their applicability.

(2) Any producer who plants less than twenty-five (25) acres of soybeans annually shall not be required to maintain books or records pursuant to this section.

(c) All information obtained from books, records, or reports required to be filed or kept pursuant to this section shall be kept confidential by all persons, including employees and former employees of the board, all officers and employees and all former officers and employees of the Department of Finance and Administration, and by all officers and employees and all former officers and employees of contracting parties having access to such information, and shall not be available to board members or any other producers. Only those persons having a specific need for such information in order to effectively administer the provisions of this subchapter shall have access to such information. In addition, only such information so furnished or acquired as the secretary or the board deems relevant shall be disclosed by them, and then only in a suit or administrative hearing brought at the direction, or upon the request, of the secretary or the board, or to which the secretary, any officer of the United States, the board, or the director, is a party. Nothing in this section shall be deemed to prohibit:

- (1) The issuance of general statements based upon the reports of the number of persons subject to this subchapter or statistical data collected therefrom, which statements do not identify the information furnished by any person; and
- (2) The publication, by direction of the secretary or the board, of the name of any person who has been adjudged to have violated this subchapter, together with a statement of the particular provisions of the subchapter violated by such person.

§ 2-20-408. Refund of assessment

(a) So long as the assessment on soybeans is as provided in § 2-20-406(b)(1), any soybean producer may request and receive a refund of such assessment, provided he or she makes a written application therefor with the Arkansas Soybean Promotion Board or its designee, the Director of the Department of Finance and Administration, within forty-five (45) days from the date of sale, supported by copies of sales slips signed by the purchaser, and provided further, that the application is filed before the annual accounting is made of the funds not later than July 1 each year.

(b) So long as the assessment on soybeans is as provided in § 2-20-406(b)(2), any soybean producer may request and receive a refund of such assessment to the extent provided by the Soybean Promotion, Research and Consumer Information Act of 1990.¹ Such producer shall make written application therefor with the board or its designee, the director, within forty-five (45) days from the date the assessment was due from such producer, supported by copies of sales slips signed by the purchaser.

§ 2-20-409. Administration; purpose; funds

(a) The Arkansas Soybean Promotion Board shall administer this subchapter to promote the soybean industry in Arkansas and shall be vested with the authority and discretion to determine administrative or program implementation and administrative or program expenditure allocations.

(b)(1)(A) The board is authorized to use the funds derived from the assessments imposed in this subchapter for research, extension, market development, and advertising designed to promote the soybean industry in Arkansas, including administration expenses.

(B) Use of these funds may be applied, as prescribed in this section, within or without Arkansas, including regional, national, and international applications.

(2) The funds may also be used to defray costs of referenda.