

STATE OF CALIFORNIA
DEPARTMENT OF FOOD AND AGRICULTURE
MARKETING BRANCH



CALIFORNIA TABLE GRAPE COMMISSION LAW
DIVISION 22, CHAPTER 3 OF THE
CALIFORNIA FOOD AND AGRICULTURAL CODE

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CALIFORNIA TABLE GRAPE COMMISSION LAW

Article 1. Declarations and Purposes

65500. (a) Grapes produced in California for fresh human consumption comprise one of the major agricultural crops of California, and the production and marketing of such grapes affects the economy, welfare, standard of living and health of a large number of citizens residing in this state.

(b) Increased plantings of vineyards and improved cultural practices for the production of California grapes for fresh human consumption have increased and will continue to increase the production thereof and unless the fresh human consumption of California grapes is increased by the expansion of existing markets and the development of new markets, the interests of the fresh grape industry of California, and the public interest of the people of this state, will be adversely affected.

(c) The inability of individual producers to maintain or expand present markets or to develop new or larger markets for such grapes results in an unreasonable and unnecessary economic waste of the agricultural wealth of this state.

(d) Such conditions and the accompanying waste jeopardize the future continued production of adequate supplies of fresh grapes for human consumption for the people of this and other states, and prevent producers from obtaining a fair return for their labor, their farms and their production. As a consequence, the purchasing power of such producers has been in the past, and may continue to be in the future unless such conditions are remedied, low in relation to that of other people engaged in other gainful occupations within the state, and they are thereby prevented from maintaining a proper standard of living and from contributing their fair share to the support of the necessary governmental and education functions, thus tending to increase unfairly the tax burden of other citizens of the state.

(e) These conditions vitally concern the health, peace, safety and general welfare of the people of this state. It is therefore necessary and expedient in the public interest to protect and enhance the reputation of California fresh grapes for human consumption in intrastate, interstate and foreign markets, and to otherwise act so to eliminate unreasonable and unnecessary economic waste of the agricultural wealth of this state.

(f) The promotion of the sale of fresh grapes for human consumption by means of advertising, dissemination of information on the manner and means of production, and the care and effort required in the production of such grapes, the methods and care required in preparing and transporting such grapes to market, and the handling of the same in consuming markets, research respecting the health, food and dietetic value of California fresh grapes and the production, handling, transportation and marketing thereof, the dissemination of information respecting the results of such research, instruction of the wholesale and retail trade with respect to handling thereof, and the education and instruction of the general public with reference to the various varieties of California fresh grapes for human consumption, the time to use and consume each variety and the uses to which each variety should be put, the dietetic and health value

thereof, all serve to increase the consumption thereof and to expand existing markets and create new markets for fresh grapes, and prevent agricultural waste, and is therefore in the interests of the welfare, public economy and health of the people of this state.

(g) It is hereby declared to be the policy of this state to aid producers of California fresh grapes in preventing economic waste in the marketing of their commodity, to develop more efficient and equitable methods in such marketing, and to aid such producers in restoring and maintaining their purchasing power at a more adequate, equitable and reasonable level.

(h) The production and marketing of grapes produced in California for fresh human consumption is declared to be affected with a public interest; the provisions of this chapter are enacted in the exercise of the police power of this state for the purpose of protecting the health, peace, safety and general welfare of the people of this state.

65501. Notwithstanding other laws to the contrary, in the event a commodity or marketing agreement or marketing order under the jurisdiction of the United States Department of Agriculture or other appropriate federal agency, is created by referendum or under the applicable laws and procedures relating thereto, in this state or in any geographical area within this state, which agreement or order contains provisions substantially similar to the provisions of this chapter, this chapter shall be inapplicable to any producer, shipper, or other person covered by, and, to the extent of such coverage, during the existence of such federal agreement or order.

65502. This chapter shall be known as the Ketchum Act.

Article 2. Definitions and General Provisions

65520. As used in this chapter, the words in the following sections have the following meanings set forth hereafter unless otherwise apparent from the context.

65521. "Cartwright Act" means the act set forth in Chapter 2 (commencing with Section 16700), Part 2, Division 7 of the Business and Professions Code.

65522. "Unfair Practices Act" means the act set forth in Chapter 4 (commencing with Section 17000), Part 2, Division 7 of the Business and Professions Code.

65523. "Fresh grapes" also designated "table grapes" means any and all varieties of grapes produced in the State of California shipped for fresh human consumption, but does not include grapes delivered to a processor for processing or grapes processed by a processor or grapes delivered to a winery for winemaking or grapes produced for use in the making of wine.

65524. "Producer" means any person engaged within this state in the business of producing or causing to be produced for market "fresh grapes."

65525. "Shipper" means any person engaged within this state in shipping fresh grapes, whether as owner, agent, or otherwise.

65526. "Processor" and derivatives therefrom, means every person and every plant within this state to whom or to which grapes are delivered for the purpose of drying, dehydrating, canning, pressing, crushing, extracting, cooking, quick freezing, or for use in producing or manufacturing a product or manufactured article.

65527. "Person" means any individual, firm, corporation, association, or any other business unit, and shall, for purposes of this chapter, include any state agency which engages in any of the commercial activities regulated pursuant to the provisions of this chapter.

65528. "Director" means the Director of Agriculture.

65529. "Advertising and sales promotion" means, in addition to the ordinarily accepted meaning thereof, trade promotion and activities for the prevention, modification or removal of trade barriers which restrict the free flow of fresh grapes to market and may include the presentation of facts to, and negotiations with, state, federal or foreign governmental agencies on matters which affect the marketing of such grapes.

65531. "Commission" means the California Table Grape Commission.

65532. "Commissioner" means any member of the commission.

65533. "Districts" shall consist of:

District 1. (Southern California) (Coachella Valley-Borrego)

Includes all that area of California south of a line described as beginning at the point of intersection of the shore line of the Pacific Ocean with the northern boundary line of San Diego County; thence northeasterly along the northern boundary of San Diego County to the point of intersection with the western boundary of Riverside County; thence northerly along the said western boundary of Riverside County to the northern boundary of said Riverside County; thence easterly along the said northern boundary of Riverside County to the point of intersection with the California-Arizona state boundary.

District 2. (Shafter, Bakersfield, Arvin)

Includes all that area of California north of the northern boundary of District No. 1 and south of a line described as beginning at the intersection of the shore line of the Pacific Ocean with a line projected due west from the intersection of U.S. Highway No. 466 and California State Highway No. 1; thence easterly along said U.S. Highway No. 466 to the town of Famoso; thence from Famoso northeasterly along the Famoso to Woody County Road to the town of Woody; thence along a line due north to a point on the northern boundary of Kern County; thence easterly along the said northern boundary of Kern County and along the northern boundary of San Bernardino County to the point of intersection with the California-Nevada state boundary.

District 3. (Earlimart, Terra Bella, Delano, McFarland)

Includes all that area of California north of the northern boundary of District No. 2 and south of a line described as beginning at the point of intersection of the shore line of the Pacific Ocean with the westerly projection of the north line of Township 23 south, M.D. B. & M.; thence easterly along the said north line of Township 23 south projected to the point of intersection with the Principal San Bernardino Meridian; thence due east along a line to the point of intersection with the California-Nevada state boundary.

District 4. (Visalia, Exeter, Porterville)

Includes all that area of California north of the northern boundary of District No. 3 and south of a line described as beginning at the point of intersection of the shore line of the Pacific Ocean with the westerly projection of the north line of Township 18 south, M.D. B. & M.; thence easterly along the said north line of Township 18 south projected to the point of intersection with the Principal San Bernardino Meridian; thence southerly along the said Principal San Bernardino Meridian to the Fifth Standard Parallel north, S.B. B. & M.; thence easterly along the said Fifth Standard Parallel north to the point of intersection with the California-Nevada state boundary.

District 5. (Reedley, Dinuba, Orange Cove)

Includes all that area of California north of the northern boundary of District No. 4 and south of a line described as beginning at the point of intersection of the shoreline of the Pacific Ocean with the Fourth Standard Parallel south M. D. B. & M.; thence easterly along the said Fourth Standard Parallel south to the point of intersection with the southerly projection of McCall Road in Fresno County; thence northerly along the said McCall Road to the point of intersection with Rose Avenue in Fresno County; thence easterly along the said Rose Avenue and along the easterly projection thereof to the point of intersection with the main channel of Kings River; thence northerly along the said Kings River to the point of intersection with California State Highway Sign Route No. 180; thence easterly along the said California State Highway Sign Route No. 180 to the point of intersection with the Fresno County boundary; thence due east along a line to the point of intersection with the California-Nevada state boundary.

District 6. (Madera, Fresno, Sanger)

Includes all that area of California north of the northern boundary of District 5 and south of a line described as beginning at the point of intersection of the shoreline of the Pacific Ocean with the northern boundary of Monterey County; thence easterly along the said northern boundary of Monterey County to the northern boundary of San Benito County; thence easterly along the said northern boundary of San Benito County to a point on the western boundary of Merced County; thence northeasterly along the said western boundary of Merced County to the northern boundary of Merced County; thence easterly along the said northern boundary of Merced County to a point on the northern boundary of Mariposa County; thence easterly along the said northern boundary of Mariposa County to the eastern boundary of Madera County; thence southerly along the said eastern boundary of Madera County to a point on the western boundary of Mono County; and also including all of the area in Mono County, California.

District 7. (Northern California) (Lodi)

Includes all that area of California north of the northern boundary of District No. 6.

Article 3. The California Table Grape Commission

65550. There is hereby created the California Table Grape Commission to be thus known and designated. The commission shall be composed of 21 fresh grape producers appointed by the director from the nominees selected as provided by this article and one public member appointed pursuant to Section 65575.1.

65551. The California Table Grape Commission shall be and is hereby declared and created a corporate body. It shall have the power to sue and be sued, to contract and be contracted with, and to have and possess all of the powers of a corporation. It shall adopt a corporate seal. Copies of its proceedings, records and acts, when certified by the secretary and authenticated by the corporate seal, shall be admissible in evidence in all courts of the state, and shall be prima facie evidence of the truth of all statements therein.

65552. The commission may appoint a manager, a treasurer and a secretary. The compensation of each officer shall be fixed by the commission and they shall serve at the pleasure of the commission with such powers and duties as may be delegated to them by the commission. No such officer shall be a member of the commission.

65553. The members of the commission shall be natural persons, each of whom shall be a citizen and resident of this state over the age of 25 years, and each of whom, as an individual, partner or employee of a producer or producers, is and has been actively engaged in growing fresh grapes within this state for a period of at least five years and is producing grapes subject to the provisions of this chapter at the time of the election. Not more than two members shall be persons employed by, or connected in a proprietary capacity with, the same corporation, firm, partnership, association or business organization; provided further, that not more than one member in any one district shall be so employed or connected. The qualifications of members of the commission, as herein set forth, must continue during their term of office.

65554. Each of the seven districts shall be represented by three members.

65555. The regular term of office of the members of the commission shall be three years from the date of appointment and until their successors are appointed, except that of the first members of each district, one shall serve for one year, one shall serve for two years and one shall serve for three years, with the determination of the term of each such member to be made by lot. Thereafter, their successors shall serve the regular term of office.

65556. Each member for each district shall be elected by a plurality of votes cast by producers in the district. Each producer who has grown fresh grapes in a district in the year preceding any election shall be entitled to two votes in such district, one for each of two nominees. In the first election after the effective date of this chapter, each producer entitled to vote in a district shall be entitled to six votes in such district, one for each of the six nominees, and the six nominees receiving the greatest number of votes shall be nominated for appointment as the members of such district for the initial terms hereunder. In the event of a tie vote which shall result in failure to nominate two persons for each commission membership available, there shall be another election held only between those nominees, the tie vote for whom resulted in such failure to so nominate required number of nominees.

65558. A nonprofit cooperative marketing association may vote by proxy for any member, if so authorized in writing. Such proxy shall be revocable at will.

65559. Immediately after the effective date of this chapter, the director shall establish a list of producers in each district. Such list of producers may be established from lists of such persons whose names and addresses appear on file in the Department of Agriculture.

In establishing such lists of producers, the director may issue a notice to shippers, requiring them to file with the director a certified report showing the name and mail address of the shipper, and the correct names and mail addresses of producers whose producing operations are located within each district from whom the shipper received fresh grapes during the next preceding season. Notice to such shippers shall be published by the director for a period of not less than five days in a newspaper of general circulation published in each district, and shall be mailed to all shippers of record with the department. The lists of producers shall be filed by shippers within 10 days from the last date of publication of the notice.

65559.5. The commission or the director in preparing a list of producers to be used under this chapter, may omit from such list any person who makes only casual sales or sales as a result of activities other than a commercial farm business venture. Any person so omitted from such list shall not be subjected to the provisions, including the payment of any assessments, of this chapter and shall not be qualified as a producer under this chapter.

Any person omitted from a list pursuant to this section may be included on any subsequent list if found qualified as a producer at the time of preparing such list.

65560. In addition, the director may obtain lists of producers whenever and in such manner as he may deem necessary or advisable, for the purpose of checking, comparing or correcting such lists. Such producer lists shall, subject to any proper corrections, be final and conclusive in making determinations relative to the number and qualifications of producers entitled to vote for commissioners in a referendum, or those persons qualified as producers for any other purpose.

65561. Any producer producing fresh grapes, whose name does not appear upon the director's list of producers affected, may have his name established thereon by filing with the director a signed statement, advising that he produced such fresh grapes in the next preceding season, and giving the quantity produced in each district and the quantity delivered to shippers or introduced into trade.

65562. Upon establishment of such lists of producers, the Director of Agriculture shall call meetings of producers in each district, for the purpose of nominating persons to be appointed to the office of commissioner. At each such district meeting for the nomination of members, the director or a representative authorized by him shall preside, and receive nominations, and at the conclusion of each such meeting shall announce the names of the persons nominated at the meetings and the time, the manner and instructions for voting by mail. Thereafter, within 10 days after each such meeting, the director shall mail to all producers ballots for the election of members in the respective districts, with instructions for voting by mail. All votes shall be required to be delivered to the Director of Agriculture or mailed for delivery within 10 days after issuance of ballots by the director.

65563. Upon expiration of the voting period the director shall tabulate all votes and shall announce the names of those persons nominated for appointment as members of the commission from each district and shall appoint one of the two nominees from each district as a member of the commission; provided that in the appointment of the first members of the commission after this chapter becomes effective the director shall appoint three of the six nominees from each district as members of the commission to serve in accordance with Section 65555.

65564. Nonreceipt of notice of a meeting for the nomination of commissioners or of ballots shall not invalidate any such meeting, nomination or election.

65565. Subsequent to the first election after the effective date of this chapter, the commission shall compile and maintain a list of qualified producers and shall, at least 30 days prior to the date set for any meeting for nomination to office of commissioner, certify such list, to the director, and such list shall constitute the list of producers qualified to vote in any such election.

65566. Subsequent to the first election after the effective date of this chapter, persons to be appointed to the office of commissioner by the Director of Agriculture shall be selected pursuant to such nomination and appointment procedures as may be established by the rules and regulations adopted by the commission in accordance with the provisions of this chapter and approved by the director.

65567. In the event the office of a commissioner becomes vacant due to failure to qualify, resignation, disqualification, death or for any other reason, such position shall be filled by an election held by the commission. Nominations shall be received by the commission from the remaining commissioners in the district where the vacancy exists. An election shall then be held by the commission and a majority vote shall elect a commissioner, subject to appointment by the director, to fill out the unexpired term for which such election is being held. Vacancies occurring within six months prior to a regular district election may remain vacant until the next regular election. Commission members elected at special elections shall serve the unexpired term of the office to which they are appointed.

65568. A majority of the members of the commission at any meeting shall constitute a quorum for the transaction of all business and the carrying out of the duties of said commission. Unless otherwise fixed by the commission, the vote of a majority of members present at a meeting at which there is a quorum shall constitute the act of the commission.

65569. No commissioner shall receive a salary. Each commissioner shall receive the sum of twenty-five dollars (\$25) per day for each day spent in actual attendance on, or in traveling to and from, meetings of the commission or on special assignment for the commission, together with actual expenses incurred in carrying out the provisions of this chapter. Traveling expenses shall be reimbursed at the rate allowed to state employees per mile traveled by automobile or actual fare when traveling by airplane, railway or other manner of transportation.

65570. All moneys received by any person from the assessments levied under the authority of this chapter or otherwise received by the commission shall be paid to it, shall be deposited in such banks as the commission may designate, and shall be disbursed by order of the commission through such agent or agents as it may designate for that purpose. Any such agent or agents shall be bonded by a fidelity bond, executed by a surety company authorized to transact business as such in the State of California, in favor of the commission, conditioned upon the faithful performance of his duties, and in addition, as to such treasurer, the strict accounting of all funds of the commission, in the penal sum of not less than fifty thousand dollars (\$50,000).

65571. The State of California shall not be liable for the acts of the commission or its contracts. Payment of all claims arising by reason of the administration of this chapter or acts of the commission shall be limited to the funds collected by the commission.

No member of the commission or any employee or agent thereof shall be personally liable on the contracts of the commission nor shall a commissioner or employees of such commission be responsible individually in any way to any producer or shipper or any other person for errors in judgment, mistakes or other acts, either of commission or omission, as principal, agent or employee, except for their own individual acts of dishonesty or crime. No commissioner shall be held responsible individually for any act or omission of any other member of such commission. The liability of the commissioners shall be several and not joint, and no commissioner shall be liable for the default of any other commissioner.

65572. The powers and duties of the commission shall include the following:

(a) To elect a chairman, and from time to time such other officers as it may deem advisable, and to delegate to such officers such administrative duties as may appear advisable.

(b) To adopt and from time to time alter, rescind, modify and amend all proper and necessary rules, regulations and orders for the exercise of its powers and the performance of its duties, including rules for regulation of appeals from any rule, regulation or order of the commission.

(c) To administer and enforce this chapter, and to do and perform all acts and exercise all powers incidental to or in connection with or deemed reasonably necessary, proper or advisable to effectuate the purposes of this chapter.

(d) To employ, and at its pleasure discharge, a manager, treasurer, secretary, employees and necessary personnel, including attorneys engaged in the private practice of the law, fix their compensation and terms of employment, prescribe their duties, and to incur such expenses as it may deem reasonably necessary and proper to properly perform such of its duties as are authorized herein. The Attorney General shall aid and assist the commission on its request and shall undertake such judicial proceedings as requested by the commission to undertake on its behalf.

(e) To establish offices and incur expense, and to enter into any and all contracts and agreements, and to create such liabilities and borrow such funds in advance of receipt of assessments as may be necessary, in the opinion of the commission, for the proper administration and enforcement of this chapter and the performance of its duties.

(f) To keep accurate books, records and accounts of all of its dealings, which books, records and accounts shall be open to inspection and audit by the Department of Finance of the State of California or other state officer charged with the audit of operations of departments of the State of California.

(g) To investigate and prosecute civilly violations of this chapter and to file complaints with appropriate law enforcement agencies or officers for criminal violations of this chapter.

(h) To promote the sale of fresh grapes by advertising and other similar means for the purpose of maintaining and expanding present markets and creating new and larger intrastate, interstate and foreign markets for fresh grapes; to educate and instruct the public with respect to fresh grapes; and the uses and time to use the several varieties, and the healthful properties and dietetic value of fresh grapes.

(i) In the discretion of the commission, to educate and instruct the wholesale and retail trade with respect to proper methods of handling and selling fresh grapes; to arrange for the performance of dealer service work providing display and other promotional materials; to make market surveys and analyses; and to present facts to and negotiate with state, federal and foreign agencies on matters which affect the marketing and distribution of fresh grapes; and to undertake any other similar activities which the commission may determine appropriate for the maintenance and expansion of present markets and the creation of new and larger markets for fresh grapes.

(j) In the discretion of the commission, to make in the name of the commission contracts to render service in formulating and conducting plans and programs, and such other contracts or agreements as the commission may deem necessary for the promotion of the sale of fresh grapes.

(k) In the discretion of the commission, to conduct, and contract with others to conduct, scientific research, including the study, analysis, dissemination and accumulation of information obtained from such research or elsewhere respecting the marketing and distribution of fresh grapes, the production, storage, refrigeration, inspection and transportation thereof, to develop and discover the dietetic value of fresh grapes and to develop and expand markets, and to improve cultural practices and product handling so that the various varieties may be placed in the hands of the ultimate consumer in the best possible condition. In connection with such research, the commission shall have the power to accept contributions of, or to match, private, state or federal funds that may be available for these purposes, and to employ or make contributions of funds to other persons or state or federal agencies conducting such research.

(l) To determine, subject to the limitations provided in Section 65600, not later than May 1 of each year, the assessment for the following 12 months' period beginning May 1st and ending April 30th.

(m) In the discretion of the commission, to publish and distribute without charge a bulletin or other communication for dissemination of information relating to the fresh grape industry to producers and shippers.

65573. The provisions of this chapter except Sections 65550, 65551, 65553, 65554, 65555, 65556, 65558, to 65565, inclusive, shall not become operative until the commission finds, in a referendum conducted by the commission in which at least 40 percent of the total number of producers established by the director as marketing 40 percent of the total volume marketed by all producers on the list established pursuant to Sections 65559 to 65562, inclusive, during the last completed marketing season participate, one or more of the following:

(a) That not less than 65 percent or more of the producers as certified by the commission in accordance with Section 65565, who voted in such referendum, voted in favor of the provisions of this chapter, and that such producers so voting marketed 51 percent or more of the total quantity of table grapes marketed in the preceding marketing season by all of the producers who voted in such referendum; or

(b) That 51 percent or more of such producers who voted in such referendum voted in favor of the provisions of this chapter and that such producers so voting marketed 65 percent or more of the total quantity of table grapes marketed in the preceding marketing season by all of the producers who voted in such referendum.

The commission shall establish a period in which to conduct such referendum which shall not be less than 10 days nor more than 60 days, and may prescribe such additional procedure as may be necessary to conduct such referendum.

Nonreceipt of a ballot shall not invalidate such referendum. If the commission finds that such favorable vote has been given as herein provided, it shall so certify to the director and give notice thereof by publication in a newspaper of general circulation in each district in accordance with Section 6066 of the Government Code and shall mail a copy of such notice to all producers and shippers whose names and addresses may be on file with the commission. All provisions of this chapter shall become effective upon completion of publication and 15 days after such certification to the director.

If the commission finds that such assent has not been given as herein provided, it shall so certify to the director, who shall declare the operation of the provisions of this chapter and of the commission suspended upon the expiration of the current marketing season ending April 30, 1968. Thereupon, the operations of the commission shall be wound up and funds distributed in the manner provided in Sections 65662 and 65663 of this chapter.

Prior to the holding of the referendum, sureties shall have posted a bond or security, acceptable to the director, in an amount which the director shall determine to be sufficient to pay the costs of the referendum should it prove unfavorable to the operation of the commission.

65574. The commission shall appoint a shipper advisory committee of five members appointed from shippers at large to advise the commission on the exercise of its powers and duties under this chapter. Such members shall be natural persons, each of whom shall be citizens and residents of this state, over the age of 25 years, each of whom, as an individual, partner or employee of a shipper or shippers, is and has been actively engaged in shipping fresh grapes in this state for a period of at least five years.

65575. Members of the shipper advisory committee shall not receive a salary. Each member of the shipper advisory committee shall receive the sum of twenty-five dollars (\$25) per day for each day spent in actual attendance on, or in traveling to and from, meetings of the commission or on special assignment for the commission together with actual expenses incurred in carrying out the provisions of this chapter. Traveling expenses shall be reimbursed at the rate allowed to state employees per mile traveled by automobile or actual fare when traveling by airplane, railway or other manner of transportation.

65575.1. Not later than April 1 of 1979, and each third year thereafter, the commission shall submit to the director the names of three or more natural persons, each of whom shall be a citizen and resident of this state and not a producer, shipper, or processor nor financially interested in any producer, shipper, or processor, for appointment by the director as a public member of the commission. The director shall, not later than April 30 of 1979, and each third year thereafter, appoint one of the nominees as the public member of the commission to serve a three-year term on the commission. If all nominees are unsatisfactory to the director, the commission shall continue to submit lists of nominees until the director has made a selection. Any vacancy in the office of public member of the commission shall be filled by appointment by the director from the nominee or nominees similarly qualified submitted by the commission not later than the first day of the second month following the month in which such vacancy occurs.

65575.2. The public member of the commission shall represent the interests of the general public in all matters coming before the commission and shall have the same voting and other rights and immunities as other members of the commission.

65576. It is hereby declared, as a matter of legislative determination, that producers or employees of producers appointed to the commission pursuant to this article are intended to represent and further the interest of a particular agricultural industry concerned, and that such representation and furtherance is intended to serve the public interest. Accordingly, the Legislature finds that, with respect to persons who are appointed to such commission, the particular agricultural industry concerned is tantamount to, and constitutes, the public generally within the meaning of Section 87103 of the Government Code.

Article 4. Assessments and Records

65600. There is hereby levied and imposed upon all fresh grapes shipped during each marketing season an assessment as fixed by the commission at that amount determined by the commission as reasonably necessary to pay all obligations incurred or to be incurred in accordance with this chapter and as reasonably necessary to carry out the objects and purposes of this chapter. However, during any marketing season the assessment shall not exceed \$0.006522 per pound (\$0.6522 per 100 pounds), computed on net weight when shipped, whether in bulk or loose in boxes or in any other container or packed in any style package.

All shipments of 150 pounds or less of fresh grapes sold or shipped by a producer direct to the consumer are exempt from the assessments.

65601. Every shipper shall keep a complete and accurate record of all fresh grapes shipped by him and the producer thereof. Such records shall be in simple form and contain such information as the commission shall by regulation or rule prescribe. Such records shall be preserved by such shipper for a period of two years and shall be offered and submitted for inspection at any reasonable time upon written demand of the commission or its duly authorized agent.

65602. Every shipper shall, at such times as the commission may by rule or regulation require, file with the commission a return, under oath, on forms to be prescribed and furnished by the commission, stating the quantity of fresh grapes shipped by him during the period or periods of time prescribed by the commission. The names of producers in each district for which such shipper has shipped, and such further information as may be necessary in the discretion of the commission to carry out the object and purposes of this chapter.

65603. All information obtained by the commission from shippers shall be confidential and shall not be disclosed except when required in a judicial proceeding.

65604. All assessments imposed by this chapter shall be due and payable and shall be paid to the commission by each shipper. The commission shall, by rule or regulations, prescribe the time and method of payment thereof.

65605. All such assessments shall be paid to the commission by the shipper first shipping such fresh grapes. Every shipper is authorized to collect such assessments from a producer, and shall deduct the assessment from any moneys owed to any such producer. Every shipper shall be primarily and personally liable for the payment of any such assessment, and failure of the shipper to collect the same from any producer shall not exempt any shipper from such primary liability. Any shipper who fails to file a return or pay any assessment within the time required shall thereby forfeit to the commission a penalty of 10 percent of the amount of such assessment determined to be due, but if the commission is satisfied that the delay was excusable, may remit all or any part of such penalty. Such penalty shall be paid to the commission and shall be available for expenditure in the same manner as an assessment.

Article 5. Actions and Penalties

65650. The commission may, if it believes a violation of this chapter or any rule or regulation has occurred, or in the event of nonpayment of any assessment, bring an action in its name for collection of such assessment, civil penalties or for injunctive relief, including specific performance, of any obligation imposed by this chapter or any rule or regulation issued hereunder, or both, against any person violating any provisions of this chapter or any rule or regulation duly issued by the commission hereunder.

If it appears to the court, upon any application for a temporary restraining order or upon the hearing of any order to show cause why a preliminary injunction should not be issued or upon the hearing of any motion for a preliminary injunction, or if the court shall find in any such action that any defendant therein is violating or has violated any provision of this chapter or any rule or regulation duly issued by the commission hereunder, then the court shall enjoin such defendant from committing further violations and may compel specific performance of any obligation imposed by this chapter or any rule or regulation issued by the commission hereunder.

In any such action, it shall not be necessary to allege or prove that an adequate remedy at law does not exist.

In any such action or proceeding, the court shall award reasonable attorney's fees incurred by the commission therein and shall, upon entry of any final judgment, enjoin any such shipper from further shipping until payment of any judgment entered for money and from further violating or aiding in violation of this chapter or any rule or regulation of the commission.

65650.5. Any person aggrieved by any action of the commission may appeal to the director. The director shall review the record of the proceedings before the commission. If the director finds that the record shows by substantial evidence that the commission's action was not an abuse of discretion or illegal, he shall dismiss such appeal.

If he finds such action is not substantially sustained by the record, was an abuse of discretion, or illegal, he may reverse the action of the commission.

Any such decision of the director is subject to judicial review upon petition of the commission or any party aggrieved by the decision.

65651. Any person subject to this chapter and allegedly aggrieved hereby or by any rule, or order of the commission shall comply with and exhaust the appeal procedure prescribed, in accordance with this chapter, by the rules and regulations of the commission, before application to any court for relief therefrom. The decision of the commission, in accordance with such rules and regulations, unless arbitrary or without evidentiary support, shall be final and conclusive.

65652. Any such action may be commenced either in the county in which the defendant or any of the defendants reside or in which any act or omission or part thereof complained of occurred.

65653. It shall be a misdemeanor for:

(a) Any person to violate or aid in the violation of any provision of this chapter or any rule or regulation of the commission.

(b) Any person to willfully render or furnish a false or fraudulent report, statement or record required by the commission pursuant to the provisions of this chapter or any rules or regulations of the commission.

(c) Any person engaged in the shipping of table grapes or in the wholesale or retail trade thereof to fail or refuse to furnish to the commission or its duly authorized agents, upon request, information concerning the name and address of the persons from whom he has received table grapes, regulated hereby, and the quantity of such commodity so received.

65654. Agents of the commission, upon specific written authorization signed by the chairman or secretary of the commission, shall have the right to inspect the premises, books, records, documents and all other instruments of any carrier, railroad, truck, boat, grower, shipper, dealer or retailer for the purpose of enforcing this chapter and collecting the assessments levied under authority of this chapter. In the event of refusal of any person to allow such inspection, the commission may apply to any court for the issuance of a subpoena to compel such inspection.

Article 6. Suspension of Operations

65660. Upon the finding of 11 of the members of the commission that the operation of the provisions of this chapter has not tended to effectuate its declared purposes, the commission may recommend to the director that the operation of this chapter shall be suspended; provided, that any such suspension shall not become effective until the expiration of the marketing season then current. The director shall, upon receipt of such recommendation, or upon a petition being filed with him requesting such suspension, signed by 20 percent of the producers, cause a referendum to be conducted among producers as certified by the commission in accordance with Section 65566, to determine if such operation and the operations of the commission shall be suspended, and shall establish a referendum period, which shall not be less than 10 nor more than 60 days. The director is authorized to prescribe such additional procedure as may be necessary to conduct such referendum.

65661. At the close of the referendum period established, the director shall tabulate the ballots filed during said period. If at least 40 percent of the total number of producers, as established by the director as marketing 40 percent of the total volume marketed by all producers on the list established pursuant to Sections 65559 to 65562, inclusive, during the last completed marketing season, participate in the referendum and the director finds either: (a) Sixty-five percent or more of the producers who voted in the referendum voted in favor of such suspension, and the producers so voting marketed 51 percent or more of the total quantity of table grapes marketed in the preceding marketing season by all of the producers who voted in the referendum; or (b) That 51 percent or more of the producers who voted in the referendum voted in favor of such suspension, and that the producers so voting marketed 65 percent or more of the total quantity of table grapes marketed in the preceding season by all of the producers who voted in the referendum; the director shall declare the operation of the provisions of this chapter and of the commission suspended, effective upon expiration of the marketing season then current.

65662. Upon and after the effective date of suspension of the operation of the provisions of this chapter and of the commission, as herein provided, the operations of the commission shall be wound up and any and all moneys remaining held by the commission, collected by assessment and not required to defray the expenses of winding up and terminating operations of the commission, shall be returned upon a pro rata basis to all persons from whom assessments were collected in the immediately preceding current marketing season; provided further, however, that if the commission finds that the amounts so returnable are so small as to make impractical the computation and remitting of such pro rata refund to such persons, any such moneys remaining and any moneys remaining after payment of all expenses of winding up and terminating operations shall be withdrawn from the approved depository and paid into the State Treasury as unclaimed trust moneys.

65663. Upon suspension of the operation of this chapter and of the commission, as aforesaid, a notice thereof shall be posted on a public bulletin board to be maintained by the director in his office, and a copy of such notice shall be published in a newspaper of general circulation in each district. It shall also be the duty of the commission to mail a copy of the notice of suspension to all producers and shippers affected by such suspension whose names and addresses are on file with the commission.

Article 7. Miscellaneous

65670. Nothing in this chapter contained shall apply to any order, rule or regulation issued or issuable by the Public Utilities Commission or the Interstate Commerce Commission with respect to operation of common carriers.

65671. In any civil or criminal action or proceeding for violation of the Cartwright Act (Section 16700, Business and Professions Code, and following), the Unfair Practices Act (Section 17000, Business and Professions Code, and following), the Fair Trade Act (Section 16900, Business and Professions Code, and following), Section 1673 of the Civil Code, or any rule of statutory or common law against monopolies or combinations in restraint of trade, proof that the act complained of was done in compliance with the provisions of this chapter or a rule or regulation of the commission issued under this chapter and in furtherance of purposes and provisions of this chapter, shall be a complete defense to such action or proceeding.

65673. The commission shall reimburse to the Director of Agriculture all expenses incurred by him in the supervision of elections.

65674. This chapter shall be liberally construed. If any section, clause or part of this chapter is for any reason held to be unconstitutional or invalid as applied to any person or as applied under certain circumstances, such decision shall not affect the remaining portions of this chapter nor the application of this chapter to other persons or under other circumstances.

Article 8. Termination

65675. Between January 1 and March 31 of each fifth calendar year commencing with the year 1972, the director shall cause a referendum to be conducted by the commission among producers in the manner prescribed in Section 65573 to determine whether the operations of the provisions of this chapter shall be reapproved and continued effective. The vote for approval and continuation shall be the same as used for the original approval of the provisions of this chapter. If the commission finds that a favorable vote has been given, it shall so certify to the director and all provisions of this chapter shall remain effective. If the commission finds that a favorable vote has not been given, it shall so certify to the director who shall declare the operation of the provisions of this chapter and the commission suspended upon the expiration of the current marketing season ending April 30. Thereupon, the operations of the commission shall be wound up and funds distributed in the manner provided in Sections 65662 and 65663. No bond or security shall be required for any such referendum.