

STATE OF CALIFORNIA
DEPARTMENT OF FOOD AND AGRICULTURE
MARKETING BRANCH



CALIFORNIA SHEEP COMMISSION LAW

Chapter 15 of Part 2, Division 22 of the
California Food and Agricultural Code

[Effective January 1, 1986 with
amendments through January 1, 2017]

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CALIFORNIA SHEEP COMMISSION LAW

ARTICLE 1. Declaration and General Provisions

76201.

The production, slaughtering, manufacturing and distributing of sheep and wool, and the products derived therefrom constitute an important industry of this state which not only provides substantial and necessary revenues for the state and employment for its citizens, but also furnishes essential food and fiber vital to the public health and welfare.

(Added by Stats. 1985, Ch. 1102, Sec. 1.)

76202.

The maintenance and expansion of the sheep industry of California and of its local, national, and foreign markets, is necessary to assure the consuming public of a continuous supply of the vital food and fiber, and the maintenance of needed levels of income for those engaged in the sheep industry of this state.

76203.

It is necessary for human nutrition and public benefit that the public be made aware of accurate and scientific information relative to the beneficial qualities of sheep, wool, and the products derived therefrom, and the values and uses thereof, and of the production and distribution costs necessary to make sheep, wool, and the products derived therefrom, available to the consuming public.

76204.

The production and marketing of sheep, wool, and the products derived therefrom, produced in this state is hereby declared to be affected with a public interest. This chapter is 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.

76205.

No action taken by the commission, nor by any individual in accordance with this chapter or with the rules and regulations adopted under the chapter, is a violation of the so-called Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), the Fair Trade Act (Chapter 3 (commencing with Section 16900) of that Part 2), the Unfair Practices Act (Chapter 4 (commencing with Section 17000) of that Part 2), or any statutory or common law against monopolies or combinations in restraint of trade.

76205.5.

This chapter shall be liberally construed. If any provision of this chapter or the application thereof to any person or circumstances is held invalid, that invalidity shall not affect other provisions or applications of the chapter, which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

76206.

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

76207.

A commission form of administration created by this chapter is designed to deal with the broad fields of advertising, promotion, marketing research, production research, and protection of sheep.

ARTICLE 2. Definitions**76221.**

Unless the context otherwise requires, the definitions in this article govern the construction of this chapter.

76222.

“Sheep” means, but is not limited to rams, ewes, wethers, and lambs.

76223.

“Books and records” means books, records, contracts, documents, memoranda, papers, correspondence, or other written data pertaining to matters relating to the activities subject to this chapter.

76224.

“Commission” means the California Sheep Commission.

76225.

“Commissioner” means any member of the commission.

76226.

“Districts” shall consist of the following:

- (a) District 1 consists of the Counties of Del Norte, Humboldt, Mendocino, and Lake.
- (b) District 2 consists of the Counties of Sonoma, Napa, and Marin.
- (c) District 3 consists of the Counties of Siskiyou, Trinity, Tehama, Modoc, Lassen, Plumas, and Shasta.
- (d) District 4 consists of the Counties of Glenn, Colusa, Butte, and Yolo.
- (e) District 5 consists of the County of Solano.
- (f) District 6 consists of the Counties of Sierra, Sutter, Yuba, Sacramento, El Dorado, Placer, and Nevada.
- (g) District 7 consists of the Counties of Calaveras, Amador, San Joaquin, Stanislaus, Tuolumne, Alpine, Alameda, Contra Costa, Santa Clara, and San Mateo, and the City and County of San Francisco.
- (h) District 8 consists of the Counties of Merced, Monterey, Mariposa, Santa Cruz, San Luis Obispo, San Benito, and Madera.
- (i) District 9 consists of the Counties of Fresno, Kings, and Tulare.
- (j) District 10 consists of the Counties of Kern, Mono, and Inyo.
- (k) District 11 consists of the Counties of Los Angeles, Imperial, San Diego, San Bernardino, Riverside, Santa Barbara, Ventura, and Orange.

The boundaries of any district may be changed by a two-thirds vote of the commission, which is concurred in by the director, when necessary to maintain similar total production among the districts and to ensure proper representation by producers. These boundaries need not coincide with county lines.

76227.

“Handler” means any person engaged in the marketing of wool which he or she has produced or purchased or acquired from a producer, or is marketing on behalf of a producer whether as owner, agent, employee, broker or otherwise. A producer who markets wool to an out-of-state handler shall be considered the handler for purposes of this chapter.

(Amended by Stats. 2001, Ch. 397, Sec. 3. Effective January 1, 2002.)

76227.5.

“Market” means to sell, ship, distribute, or otherwise handle wool.

76228.

“Marketing research” means any research relating to the marketing of sheep, wool, and the products derived therefrom.

76229.

“Marketing year” or “fiscal year” means the period beginning April 1 of any year and ending March 31 of the following year.

(Amended by Stats. 2001, Ch. 397, Sec. 4. Effective January 1, 2002.)

76230.

“Producer” means any person in this state who raises, breeds, grows, or feeds sheep, and markets, or causes to be marketed, the wool derived therefrom and who, upon request, provides proof of commodity marketing during the preceding marketing year. “Producer” does not include any person who markets 100 pounds or less of wool in the preceding marketing year.

(Amended by Stats. 2001, Ch. 397, Sec. 5. Effective January 1, 2002.)

76231.

“Production research” means any research relating to the production of sheep, wool, and the products derived therefrom.

76232.

“Ex officio member” means a nonvoting member of the commission.

76233.

(a) "Wool" means the shorn fiber of live sheep in the grease basis, including offsort wool or offsorts in the natural state before cleaning or scouring.

(b) For the purposes of this chapter, the following terms have the following meanings:

(1) "Offsort wool or offsorts" means tags, bellies, or crutchings.

(2) "Tags" means wool which has become discolored from urine or feces, dung locks, or floor sweepings.

(3) "Bellies" means wool which has been shorn from the belly of the sheep.

(4) "Crutchings" means wool which has been shorn from the crotch area of a sheep.

(Amended by Stats. 2001, Ch. 397, Sec. 6. Effective January 1, 2002.)

ARTICLE 3. The California Sheep Commission

76251.

(a) There is in the state government the California Sheep Commission. The commission shall be composed of 13 sheep producers and one public member. Producers within districts 1 to 9, inclusive, shall each elect one producer to serve on the commission. Producers within districts 10 and 11 shall each elect two producers to serve on the commission.

(b) The public member shall be appointed to the commission by the director from nominees recommended by the commission.

(c) The director and other appropriate individuals, as determined by the commission, shall be ex officio members of the commission.

76252.

(a) The director may require the commission to correct or cease any existing activity or function which is determined by the director not to be in the public interest or which is in violation of this chapter.

(b) If the commission refuses or fails to cease these activities or functions or to make these corrections as required by the director, the director may, upon written notice, suspend all or a portion of the activities or functions of the commission until the time that the cessation or correction of activities or functions as required by the director has been accomplished by the commission.

(c) Actions of the commission in violation of the written notice are without legal force or effect. The director, to the extent feasible, shall issue the written notice prior to the commission entering into any contractual relationship affecting the existing or proposed activities or functions which are the subject of the written notice.

(d) Upon service of the written notice, the director shall notify the commission in writing of the specific acts which he or she determines are not in the public interest or are in violation of this chapter, his or her reasons for requiring a cessation or correction of specific existing or proposed activities or functions, and he or she may make recommendations that will make the activities or functions acceptable.

76253.

The commission or the director may bring an action for judicial relief from the director's written notice, or from noncompliance by the commission with the written notice, as the case may be, in a court of competent jurisdiction, which may issue a temporary restraining order, permanent injunction, or other applicable relief.

76254.

When the director is required to concur in a decision of the commission, he or she shall indicate his or her response to the commission within 15 working days from notification of the decision. The response may be a request that additional information be provided.

76255.

The commission shall reimburse the director for all expenditures incurred by the director in carrying out his or her duties and responsibilities pursuant to this chapter. However, the court may, if it finds that the director acted arbitrarily or capriciously in restricting the activities or functions of the commission, relieve the commission of the responsibility for payment of the director's legal costs with regard to that action.

76256.

Each member of the commission, except the ex officio members, shall have an alternate member to be elected in the same manner as the member. An alternate member shall, in the absence of the member for whom he or she is an alternate, serve in place of the member on the commission, and shall have and be able to exercise all the rights, privileges, and powers of the member when serving on the commission. In the event of death, removal, resignation, or disqualification of a member, the alternate shall act as a member on the commission until a successor is elected and has qualified.

76257.

Any vacancy on the commission occurring by the failure of any person elected to the commission as a member or alternate member to continue in his or her position due to a change in status, making him or her ineligible to serve, or due to death, removal, or resignation, shall be filled, for the unexpired portion of the term, by a majority vote of the commission. That person shall fulfill all the qualifications set forth in this article as required for the member whose office he or she is to fill.

76257.5.

Any producer member or his or her alternate on the commission shall be an individual or an employee representing a producer who has a financial interest in producing, or causing to be produced, wool for market. The qualifications of a producer member and an alternate producer member shall be maintained during the entire term of office.

76258.

The public member or his or her alternate on the commission, shall have all the powers, rights, and privileges of any other member on the commission. The public member shall not have any financial interest in the sheep or wool industry.

76259.

The term of office of all members of the commission, except ex officio members, shall be two years from the date of their election and until their successors are qualified. However, of the first members of the commission, one-half of the producers shall serve for one year, and one-half of the producers shall serve for two years, with the determination of the term of each such member made by lot at the time of the election.

(Amended by Stats. 2016, Ch. 260, Sec. 10. Effective January 1, 2017.)

76260.

The 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 may adopt a corporate seal. Copies of its proceedings, records, and acts, when authenticated, shall be admissible in evidence in all courts of the state and shall be prima facie evidence of the truth of all statements therein.

76261.

A quorum of the commission shall be eight voting members of the commission. Except as provided in Sections 76226 and 76382.5, the vote of a majority of members present at a meeting at which there is a quorum shall constitute the act of the commission.

76262.

The director or his or her representatives shall be notified and may attend each meeting of the commission and any committee meeting of the commission.

76263.

No member of the commission or member of a committee established by the commission who is a nonmember of the commission shall receive a salary. Each member of the commission, except ex officio government members, and each member of a committee established by the commission who is a nonmember of the commission, may receive a sum not to exceed one hundred dollars (\$100) per day, as established by the commission. This per diem shall be paid to members for each day spent in actual attendance at, or in traveling to and from, meetings of the commission or committees of the commission, or on special assignment for the commission, as approved by the commission. Members shall also receive the necessary traveling expenses and meal allowances, as approved by the commission.

76264.

All funds received by any person from the assessments levied under the authority of this chapter or otherwise received by the commission shall be deposited in banks which the commission may designate and shall be disbursed by order of the commission through an agent or agents as it may designate for that purpose. The agent or agents shall be bonded by a fidelity bond, executed by a surety company authorized to transact business in this state, in favor of the commission, in the amount of not less than twenty-five thousand dollars (\$25,000).

76265.

The state is not liable for the acts of the commission or its contracts. Payments of all claims arising by reason of the administration of this chapter or acts of the commission are limited to the funds collected by the commission. No member of the commission, alternate member, or any employee or agent thereof, is personally liable for the contracts of the commission. No member of the commission, alternate member, or any employee or agent thereof, is responsible individually in any way to any producer, processor, handler, or any other person for errors in judgment, mistakes, or other acts, either of commission or omission, as principal, agent, or employee, except for his or her

own individual acts of dishonesty or crime. No member of the commission, alternate member, or any employee or agent thereof, is responsible individually for any act or omission of any other member of the commission. Liability is several and not joint, and no member of the commission, alternate member, or any employee or agent thereof, is liable for the default of any other member of the commission.

ARTICLE 4. Powers and Duties of the Commission**76281.**

The powers and duties of the commission shall include, but are not limited to, all of those contained in this article.

76282.

The commission may adopt and from time to time alter, rescind, modify, and amend all proper and necessary bylaws, rules, regulations, operating procedures, and orders for carrying out this chapter, including rules for appeals from any bylaw, rule, regulation, operating procedure, or order of the commission.

76283.

The commission may 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 for proper or advisable effectuation of this chapter. The commission's authority includes, but is not limited to, entering into contracts for services with public and private agencies which are deemed necessary by the commission to carry out this chapter.

76284.

The commission may appoint its own officers, including a chairman, one or more vice chairmen, and such other officers as it deems necessary. The officers shall have the powers and duties delegated to them by the commission.

76285.

The commission may employ a person to serve at the pleasure of the commission as president and chief executive officer of the commission, and other personnel, including legal counsel, necessary to carry out the provisions of this chapter. The commission may retain a management firm or the staff from any board, commission, or committee of the state to perform the functions prescribed by this section under the control of the commission. If the person engages in any conduct which the director determines is not in the public interest or which is in violation of this chapter, the director shall notify the commission of the conduct and request that corrective and, if appropriate, disciplinary action be taken by the commission. In the event that the commission fails or refuses to correct the situation or to take disciplinary action satisfactory to the director, the director may suspend or discharge the person.

76286.

The commission may fix the compensation for all employees of the commission.

76287.

The commission may appoint committees composed of both members and nonmembers of the commission including, but not limited to, a committee of handlers, to advise the commission in carrying out this chapter.

76288.

The commission may establish offices, incur expenses, enter into any and all contracts and agreements, create liabilities, and borrow 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.

76289.

The commission shall keep accurate books, records, and accounts of all of its dealings, which shall be subject to an annual audit by an auditing firm selected by the commission with the concurrence of the director. A summary of the audit shall be made a part of an annual report to all producers, copies of which shall also be submitted to the Legislature and the department. In addition, the director may, as he or she determines necessary, conduct or cause to be conducted a fiscal and compliance audit of the commission.

76290.

The commission may promote the sale of lamb, wool, and the products derived therefrom by advertising and other promotional means, including cost-sharing advertising, for the purpose of maintaining and expanding present markets and creating new and larger intrastate, interstate, and foreign markets for lamb and wool, and to educate and instruct the public with respect to the many and varied uses of lamb, wool, and the products derived therefrom.

76291.

The commission may educate and instruct the wholesale and retail trade with respect to proper methods of handling and selling wool.

76291.3.

The commission may make market surveys and analyses.

76291.5.

The commission may present facts to, and negotiate with, state, federal, and foreign agencies on matters which affect this chapter.

76292.

The commission may make, in its name, contracts to render service in formulating and conducting plans and programs and any other contracts or agreements that the commission may deem necessary for carrying out the purposes of this chapter.

76293.

The commission may conduct, and contract with others to conduct, research, including the study, analysis, dissemination, and accumulation of information obtained from the research or elsewhere, regarding this chapter. The results of any research conducted by or on behalf of the commission may be used by the commission in any way it deems appropriate, and notwithstanding any other provision of law, may be maintained in confidence by the commission and not disseminated to any person not subject to this chapter.

(Amended by Stats. 2001, Ch. 397, Sec. 7. Effective January 1, 2002.)

76293.5.

The commission may accept contributions of, or match private, state, or federal funds, and employ or make contributions of funds to other persons or state or federal agencies for purposes of promoting, enhancing, and maintaining sheep industry.

(Added by Stats. 2001, Ch. 397, Sec. 8. Effective January 1, 2002.)

76294.

The commission may collect information, including, but not limited to, industry statistics, and may publish and distribute, without charge, a bulletin or other communication for dissemination of information to producers and handlers.

(Amended by Stats. 2001, Ch. 397, Sec. 9. Effective January 1, 2002.)

76295.

The commission may establish an assessment rate to defray operating costs of the commission.

76296.

The commission may establish an annual budget according to accepted accounting practices. The budget shall be concurred in by the director prior to disbursement of funds, except for disbursements made pursuant to Section 76286.

76297.

The commission may submit to the director, for his or her concurrence, an annual statement of contemplated activities authorized pursuant to this chapter.

76298.

The commission may investigate and prosecute civil violations of this chapter and file complaints with appropriate law enforcement agencies or officers for suspected criminal violations of this chapter.

ARTICLE 5. Implementation and Voting Procedures

76311.

(a) Not later than April 1, 1999, or as soon thereafter as possible, the secretary shall establish a list of producers eligible to vote on implementation of this chapter. In establishing the list, the secretary may require that handlers, producers, and others submit the names and mailing addresses of all producers. The secretary also may require that the information provided include the quantity of wool produced by each producer or, in the alternative, may establish procedures for receiving the information at the time of the referendum vote specified in Section 76312. The request for the information shall be in writing. The information shall be filed within 30 days following receipt of the written request.

(b) Any producer whose name does not appear on the secretary's list may have his or her name established on the list by filing with the secretary a signed statement, identifying himself or herself as a producer. Failure to be on the list does not exempt the producer from paying assessments.

(c) Prior to the certification of a favorable vote as provided in Section 76315, the secretary shall allow producers to view the list of names of producers created pursuant to subdivision (a). The list shall be viewed only at the department and shall not be photocopied.

(Amended by Stats. 1998, Ch. 575, Sec. 4. Effective January 1, 1999.)

76312.

This chapter, except as necessary to conduct an implementation referendum vote, shall not become operative until the director finds in a referendum vote conducted by the director that at least 40 percent of the total number of producers from the list established by the director pursuant to this article, participate, and that either of the following occurred:

(a) Sixty-five percent or more of the producers who voted in the referendum voted in favor of the provisions of this chapter, and the producers so voting marketed a majority of the total quantity of wool in the preceding season by all of the producers who voted in the referendum.

(b) A majority of the producers who voted in the referendum voted in favor of this chapter, and the producers so voting marketed 65 percent or more of the total quantity of wool in the preceding season by all of the producers who voted in the referendum.

76313.

The director shall establish a period in which to conduct the referendum which shall not be less than 10 days nor more than 60 days in duration, and may prescribe additional procedures that may be necessary to conduct the referendum. If the initial period established is less than 60 days, the director may extend the period, however the total referendum period may not exceed 60 days.

76314.

Nonreceipt of a ballot shall not invalidate a referendum.

76315.

If the director finds that a favorable vote has been given as provided in Section 76312, he or she shall certify and give notice of the favorable vote to all producers whose names and addresses may be on file with the director.

76316.

If the director finds that a favorable vote has not been given as provided in Section 76312, he or she shall certify and declare all provisions of this chapter inoperative.

76317.

Upon certification of the commission, the director shall contact all producers in each district by mail, or call meetings of producers in each district for the purpose of nominating and electing persons for appointment to the commission. All producers on the director's list shall be given written notice of any election meetings at least 15 days prior to the meeting date.

76318.

To be eligible for election to the commission, producer nominees must present to the director a nomination petition with the signatures of at least 10 eligible producers from the district from which the nominee is seeking election.

76319.

Subsequent to the first election of members of the commission pursuant to this chapter, persons to be elected to the commission shall be selected pursuant to nomination and election procedures as shall be established by the commission with the concurrence of the director.

76320.

(a) Prior to the referendum vote conducted by the director pursuant to Section 76312, the proponents of the commission shall deposit with the director the amount that the director deems necessary to defray the expenses of preparing the necessary lists and information and conducting the vote.

(b) Any funds not used in carrying out Section 76312 shall be returned to the proponents of the commission who deposited the funds with the director.

(c) Upon establishment of the commission, the commission is authorized to reimburse the proponents of the commission for any funds deposited with the director which were used in carrying out Section 76312, and for any legal expenses and costs incurred in establishing the commission.

ARTICLE 6. Assessments and Records

76341.

- (a) The commission shall, not later than March 31 of each year, or as soon thereafter as possible, establish the assessment for the following marketing year.
- (b) The assessment for the first marketing year shall be six cents (\$0.06) per pound on all wool marketed by producers.
- (c) For the second and subsequent marketing years, the assessment shall not exceed eight cents (\$0.08) per pound on all wool marketed by producers, as determined by the commission, unless a greater fee is approved by producers pursuant to the procedures specified in Section 76381.
- (d) The commission may establish an assessment rate that is different for offsort wool or offsorts than for other wool, provided that the rate does not exceed the maximum assessment authorized in subdivision (c).
- (e) The assessment rate for wool, other than offsort wool, shall not be increased by more than one-half of one cent (\$0.005) each marketing year.
- (f) A fee greater than twelve cents (\$0.12) per pound may not be charged unless that fee is approved by the Legislature by statute.
- (g) Assessments provided for in this section shall be upon the producer. The handler shall deduct the assessment from amounts paid by him or her to the producer and shall be a trustee of those funds until they are paid to the commission at the time and in the manner prescribed by the commission.
- (Amended by Stats. 2001, Ch. 397, Sec. 10. Effective January 1, 2002.)*

76341.5.

This chapter does not apply to the wool produced only for the producer's home use. However, the producer shall file an affidavit with the commission establishing that he or she has not marketed the wool. The commission shall then determine whether the affidavit should be approved.

76341.7.

This article applies to wool that was removed from sheep after December 31, 1998.

(Added by Stats. 1999, Ch. 29, Sec. 1. Effective May 26, 1999.)

76342.

Every handler shall keep a complete and accurate record of all wool handled with the name of the producer whose wool was handled. When the wool handled was acquired from a person who is not a producer, the handler shall determine from that person the name of the producer for the purposes of the records required by this section. The records shall be in simple form and contain information as the commission shall prescribe. The records shall be preserved by the handler for a period of five years and shall be offered and submitted for inspection at any reasonable time upon written demand of the commission or its duly authorized agent.

(Amended by Stats. 2001, Ch. 397, Sec. 11. Effective January 1, 2002.)

76343.

All proprietary information obtained by the commission or the director from producers or handlers or any other source, and all lists of producers in the possession of the commission or the director are confidential and shall not be disclosed except when required by a court order after a hearing in a judicial proceeding regarding this chapter. Information on volume shipments, commodity value, and other related information which is required for reports to governmental agencies, financial reports made to the commission or aggregate sales and inventory information, and any other information which the handlers request from the commission to receive in total, excluding individual handler information, may be disclosed by the commission.

(Amended by Stats. 2001, Ch. 397, Sec. 12. Effective January 1, 2002.)

76344.

Every handler shall be personally liable for the payment of collected assessments and failure of a handler to collect the assessment from a producer shall not exempt the handler from liability.

76345.

Any assessment which is levied as provided for in this chapter is a personal debt of every producer so assessed. Failure of a handler to collect the assessment shall not relieve the producer of the obligation to pay the assessment.

76346.

Any producer or handler who fails to file a return or pay any assessment within the time required by the commission shall pay to the commission a penalty of 10 percent of the amount of the assessment determined to be due and, in addition, 1¹/₂ percent interest per month on the unpaid balance.

76347.

When the handler is a corporation, all of the directors and officers of the corporation in their capacity as individuals shall be included, and any liability for failing to collect or make payment of assessments, of which a corporate handler may be subject to under this chapter, shall also include identical liability upon each director or officer of the corporation.

ARTICLE 7. Actions and Penalties

76361.

It is unlawful for any person to do any of the following:

- (a) Fail or refuse to render or furnish a report, statement, or record required by the commission.
- (b) Willfully render or furnish a false report, statement, or record required by the commission.
- (c) When engaged in the handling of wool, to fail or refuse to furnish the commission or its duly authorized agents, information concerning the name and address of the producers or other persons from whom wool has been received and the quantity so received.
- (d) Secrete, destroy, or alter records required to be kept under this chapter.

(Amended by Stats. 2001, Ch. 397, Sec. 13. Effective January 1, 2002.)

76362.

The commission shall establish procedures for the purpose of according individuals aggrieved by its actions or determinations an informal hearing before the commission, or before a committee of the commission designated for that purpose. Appeals from decisions of the commission may be made to the director. The determination of the director shall be subject to judicial review upon petition, filed with the appropriate superior court.

76363.

The commission may commence civil actions and utilize all remedies provided in law or equity for the collection of assessments and civil penalties, and for the obtaining of injunctive relief or specific performance, regarding this chapter and the rules and regulations adopted pursuant to this chapter. A court shall issue to the commission any requested writ of attachment or injunctive relief upon a prima facie showing by verified complaint that a named defendant has violated this chapter or any other rule or regulation of the commission, including, but not limited to, the nonpayment of assessments. No bond shall be required to be posted by the commission as a condition for the issuance of any writ of attachment or injunctive relief.

A writ of attachment shall be issued pursuant to Chapter 5 (commencing with Section 485.010) of Title 6.5 of Part 2 of the Code of Civil Procedure, except that the showing specified in Section 485.010 of the Code of Civil Procedure is not required. Injunctive relief shall be issued pursuant to Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure, except that the showing of irreparable harm or inadequate remedy at law specified in Section 526 and 527 of the Code of Civil Procedure is not required.

Upon entry of any final judgment on behalf of the commission against any defendant, the court shall enjoin the defendant from conducting any type of business regarding the commodity subject to this chapter until there is full compliance and satisfaction of the judgment. Upon a favorable judgment for the commission, it shall be entitled to receive reimbursement for any reasonable attorney's fees and other actual related costs. Venue for these actions may be established at the domicile or place of business of the defendant or in the county of the principal office of the commission. The commission may be sued only in the county of its principal office.

(Amended by Stats. 2001, Ch. 397, Sec. 14. Effective January 1, 2002.)

ARTICLE 8. Continuation or Suspension and Termination

76381.

(a) Every five years, commencing with the 2004–05 marketing year, the secretary shall hold a hearing to determine whether the operation of this chapter shall be continued in effect. If the secretary finds, following the hearing, that a substantial question exists among producers assessed under this chapter as to whether the operation of this chapter shall be continued in effect, the secretary shall conduct a referendum vote among producers to determine whether the operation of this chapter shall be approved and continued in effect. A favorable vote under this section shall be found if the secretary determines from the referendum that a majority of the eligible producers voting in the referendum voted in favor of continuing the operations of this chapter.

(b) If the secretary finds, following the referendum vote, that a favorable vote has been given as provided in subdivision (a), the secretary shall so certify and this chapter shall remain in operation. If the secretary finds that a favorable vote has not been given as provided in subdivision (a), the secretary shall so certify and declare the operation of this chapter and the commission suspended upon expiration of the then current marketing year. At that time, the operations of the commission shall be concluded and funds distributed in the manner provided in Section 76383.
(Repealed and added by Stats. 1998, Ch. 575, Sec. 7. Effective January 1, 1999.)

76382.

If a petition is filed as provided in Section 76382.5, the secretary shall hold a hearing pursuant to Section 76381 prior to conducting the referendum authorized by Section 76382.5.
(Repealed and added by Stats. 1998, Ch. 575, Sec. 9. Effective January 1, 1999.)

76382.5.

Upon a finding by a two-thirds vote of the commission that the operation of this chapter has not tended to effectuate its declared purposes, the commission may recommend to the director that the operation of this chapter be suspended. However, any suspension shall not become effective until the expiration of the current marketing season. The director shall, upon receipt of the recommendation, or may after a public hearing to review a petition filed with him or her requesting a suspension and signed by 20 percent of the producers by number who produced not less than 20 percent of the volume of wool in the immediately preceding season, hold a referendum among the producers to determine if the operations of the commission shall be suspended. However, the director shall not hold a referendum as a result of the petition unless the petitioner shows, by the weight of evidence, that the operation of this chapter has not tended to effectuate its declared purposes. The director shall establish a referendum period, which shall not be less than 10 days nor more than 60 days in duration. The director may prescribe additional procedures as may be necessary to conduct the referendum. At the close of the established referendum period, the director shall tabulate the ballots filed during the period. If at least 40 percent of the total number of producers from the list established by the director participate in the referendum, the director shall suspend the operation of this chapter if he or she finds either one of the following has occurred:

(a) Sixty-five percent or more of the producers, who voted in the referendum, voted in favor of suspension, and the producers so voting marketed 50 percent or more of the total quantity of wool marketed in the preceding marketing season by all of the producers who voted in the referendum.

(b) A majority of the producers who voted in the referendum voted in favor of suspension, and the producers so voting marketed 65 percent or more of the total quantity of wool marketed in the preceding marketing season by all of the producers who voted in the referendum.

76382.6.

The secretary shall terminate the commission at the end of the current marketing year if the secretary finds that the termination of the commission is requested in writing, within a 90-day period, by at least 51 percent of the eligible producers that are directly affected that produce at least 51 percent of the volume of the product.

The person or persons originating the request shall file a written notice with the secretary in a manner that establishes the date the request is initiated. Any person may withdraw his or her name from the petition requesting the termination prior to the time the request is presented to the secretary.

The signatures to the petition requesting the termination need not all be appended to one sheet of paper. Each person signing the petition shall add to his or her signature his or her place of business, giving street and number. If no street and number exist, then a designation of the place of business shall be given which will enable the location to be readily ascertained.

The petition shall bear a copy of the notice of intention. Signatures shall be secured within the time limit specified in this section.

(Amended by Stats. 1998, Ch. 575, Sec. 10. Effective January 1, 1999.)

76383.

After the effective date of suspension of the operation of this chapter, the operation of the commission shall be concluded and any and all funds remaining held by the commission, collected by assessment and not required to defray the expenses of concluding 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 marketing year. However, if the commission finds that the amounts so returnable are so small as to make impractical the computation and remitting of the prorated refund to these persons, any funds remaining after payment of all expenses of winding up and terminating operations shall be withdrawn from the approved depository and paid into an appropriate program conducted by the University of California or the California State University system, another state agency, or a federal agency that deals with the purposes of this chapter. If no program exists, the funds shall be paid into the State Treasury as unclaimed trust funds.

(Amended by Stats. 1998, Ch. 575, Sec. 11. Effective January 1, 1999.)

76384.

Upon suspension of the operation of this chapter, the commission shall mail a copy of the notice of suspension to all producers affected by the suspension whose names and addresses are on file.