

CHAPTER 154

(HB 626)

AN ACT relating to agriculture.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 45A.645 is amended to read as follows:

- (1) If purchasing agricultural products, state agencies, as defined by KRS 45A.505, shall purchase Kentucky-grown agricultural products if the products are available and if the vendor can meet the applicable quality standards and pricing requirements of the state agency.
- (2) (a) Prospective vendors of Kentucky-grown agricultural products may apply to the Kentucky Department of Agriculture for marketing assistance for the *authorized use*~~[purchase]~~ of ~~Kentucky-grown~~ logos or labeling statements to be used on Kentucky-grown agricultural products under *Section 4 of this Act*~~[KRS 260.015]~~, the Kentucky *Proud™*~~[logo or labeling]~~ Program.
- (b) Before a state agency may purchase Kentucky-grown agricultural products, the vendor shall be required to participate in the *Kentucky Proud™*~~[logo or labeling]~~ Program established by *Section 4 of this Act*~~[KRS 260.015]~~, and shall provide to the purchasing officer written certification that the agricultural products under consideration for purchase meet the definition of Kentucky-grown agricultural product.
- (c) All state agencies that purchase Kentucky-grown agricultural products shall, on or before January 1 of each year, provide a report to the Legislative Research Commission and to the Department of Agriculture describing the amount of each product purchased.
- (3) If a contract is awarded to a vendor that supplies agricultural products that are raised or produced outside the United States or its territories, the vendor shall be required to identify the country in which the agricultural product was raised or produced if the vendor is the producer or packager of the product or if the vendor is not the producer or packager, provided the information is available to the vendor from the producer or packager of the product. The producer or packager shall clearly label that information on any containers or packages holding the product.

➔Section 2. KRS 148.830 is amended to read as follows:

The Department of Parks shall establish a pilot project within the Department of Parks to promote the sale of Kentucky-grown agricultural products, as defined in KRS 45A.630, in state resort park restaurants and gift shops. The promotion program shall operate in conjunction with the Kentucky *Proud™*~~[logo or labeling statement]~~ Program *in accordance with Section 4 of this Act*~~[pursuant to KRS 260.015]~~. The commissioner of the Department of Parks shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement the promotion program no later than October 1, 2002.

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 260 IS CREATED TO READ AS FOLLOWS:

As used in Sections 3 to 6 of this Act:

- (1) *"Agricultural product" means any farm product grown, raised, or produced as a result of being in the business of "agriculture," as defined by KRS 246.010; and*
- (2) *"Kentucky-grown agricultural product" means any agricultural product grown, raised, produced, processed, or manufactured in Kentucky.*

➔Section 4. KRS 260.015 is repealed, reenacted as a new section of KRS Chapter 260, and amended to read as follows:

- (1) The Commissioner shall establish *a Kentucky Proud™ Program to promote the sale of agricultural products and, if funds are available, shall develop*~~[if an appropriation is made for the purpose,]~~ a logo or labeling statement for use in identifying *Kentucky-grown* agricultural products that *qualify for the program*~~[have been grown, processed, or manufactured in this state]~~. The Commissioner may develop labeling statements that apply to specific marketing or promotional needs.~~[One (1) version of the labeling statement may identify food products certified by the department as organically grown in this state. The agriculture logo or labeling statement may be used on processed or manufactured products produced in this state.]~~

- (2) The logo or labeling statement shall not be used without a license from the Commissioner, except that wholesalers and retailers may use the logo or labeling statement for displaying and advertising products that qualify for *the Kentucky Proud™ Program*. *The Commissioner may deny the use of the logo or labeling statements if they are used in a manner that does not meet the criteria of the program*~~[use of the logo or labeling statement]~~.
- (3) The logo or labeling statement shall not supersede or replace any federal or state label or grade statement that is required by law.
- (4) A person shall not use the ~~[agricultural]~~ logo or labeling statement without an annual license from the Commissioner.
- (5) In order to accomplish the purposes of this section, the Commissioner may participate jointly with ~~[private]~~ persons in appropriate logo programs and projects and may enter into contracts necessary to carry out those programs and projects.
- (6) If *funds are available*~~[the logo program is undertaken]~~, the Department of Agriculture *may*~~[shall]~~ provide *grants-in-aid and other* assistance to those persons *who*~~[or businesses that]~~ wish to *participate in*~~[use]~~ the *Kentucky Proud™ Program*~~[logo]~~.
- (7) The Commissioner may promulgate administrative regulations *necessary to carry out the provisions of Sections 3 to 6 of this Act, and may establish a fee schedule for persons who process, manufacture, or distribute eligible agricultural products in Kentucky. Those persons may be required to pay a fee into the fund created by Section 6 of this Act in order to participate in the Kentucky Proud™ Program*~~[as may be necessary to authorize the use and licensing of the agriculture logo or labeling statement]~~.
- (8) It shall be the duty of the department, or upon the request of the Commissioner of Agriculture, of the Attorney General, to bring an action for the recovery of the penalties provided in this section, and to bring an action for an injunction against any person~~[, corporation, enterprise, or business entity]~~ violating or threatening to violate any of the provisions of *Sections 3 to 6 of this Act*~~[this section]~~ or the administrative regulations promulgated *in accordance with Sections 3 to 6 of this Act*~~[pursuant to this section]~~.
- (9) A person who is required to have a license to *participate in the Kentucky Proud™ Program*~~[use the Kentucky agricultural pride logo or labeling statement]~~ and uses the logo or labeling statement without a license after being notified by the Commissioner that a license is required shall be liable to a civil penalty not to exceed the sum of one hundred dollars (\$100) for the violation, and an additional civil penalty not to exceed one hundred dollars (\$100) for each day during which the violation continues. The penalties shall be recoverable in an action brought in the name of the Commonwealth of Kentucky by the department or, upon the department's request, by the Attorney General.

➔SECTION 5. A NEW SECTION OF KRS CHAPTER 260 IS CREATED TO READ AS FOLLOWS:

- (1) (a) *The Kentucky Proud™ Advisory Council is hereby created for the purpose of advising the department concerning the implementation and administration of the Kentucky Proud™ Program authorized by Section 4 of this Act. The council shall consist of the following twelve (12) members:*
 1. *Commissioner, or the Commissioner's designee, who shall serve as chair and who shall appoint the members in subparagraphs 3. to 11. of this paragraph;*
 2. *Dean, University of Kentucky College of Agriculture, or the Dean's representative;*
 3. *One (1) farmer member of the Kentucky Proud™ Program;*
 4. *One (1) Kentucky food retailer;*
 5. *One (1) Kentucky food distributor;*
 6. *One (1) Kentucky food processor;*
 7. *One (1) Kentucky agritourism venue operator;*
 8. *One (1) representative of a Kentucky agriculture commodity organization;*
 9. *One (1) Kentucky restaurateur;*
 10. *One (1) producer of a Kentucky Proud™ product; and*

11. Two (2) at-large members.

- (b) *Each appointed member of the council shall serve for a term of two (2) years or until a successor is appointed and may be reappointed for additional terms.*
 - (c) *The chair or a majority of the members may call a meeting to order, and the council may meet as often as necessary for the conduct of its business. A majority of the membership shall constitute a quorum for the transaction of business.*
 - (d) *The council shall:*
 - 1. *Advise the department concerning the implementation and administration of the Kentucky Proud™ Program; and*
 - 2. *Make recommendations to the department regarding the content of administrative regulations promulgated by the department in accordance with Sections 3 to 6 of this Act.*
 - (2) *Appointed council members may be reimbursed for reasonable and necessary expenses incurred while engaged in carrying out the official duties of the council.*
 - (3) *The council shall be attached to the Department of Agriculture for administrative purposes.*
- ➔SECTION 6. A NEW SECTION OF KRS CHAPTER 260 IS CREATED TO READ AS FOLLOWS:
- (1) *The Kentucky Proud™ promotion fund is created in the State Treasury as a trust and agency account to be administered by the department for the purposes provided in this section.*
 - (2) *Notwithstanding the provisions of KRS 45.229, any moneys accruing to this fund in any fiscal year, including state appropriations, gifts, grants, federal funds, interest, and any other funds both public and private, shall not lapse but shall be carried forward to the next fiscal year.*
 - (3) *Moneys received in the fund shall be used for administrative expenses to support the Kentucky Proud™ Program, provide grants-in-aid, and other purposes and expenses related to promoting Kentucky-grown agricultural products.*

Signed by Governor April 24, 2008.