

By: Shows, Ellzey, Eaton

To: Agriculture

HOUSE BILL NO. 1445

1 AN ACT TO CREATE THE "MISSISSIPPI POULTRY PRODUCTION CONTRACT
2 FAIR PRACTICES ACT"; TO PROVIDE DEFINITIONS; TO PROVIDE
3 PROHIBITIONS AND REQUIREMENTS FOR PROCESSORS AND GROWERS; AND FOR
4 RELATED PURPOSES.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

6 SECTION 1. The Legislature finds that the production of
7 poultry constitutes an important and significant portion of the
8 state's economy and that it is beneficial to the citizens of this
9 state to protect the vitality of this enterprise.

10 SECTION 2. For the purposes of this section, the following
11 words and phrases shall have the meanings ascribed herein:

12 (a) "Producer" means any person engaged in the business
13 of raising or caring for live poultry under a poultry-growing
14 arrangement, whether the poultry is owned by such person or by
15 another.

16 (b) "Poultry" means any domesticated bird, whether live
17 or dead, and includes laying hens, broiler breeding hens, broiler
18 breeder pullets, commercial egg hens, commercial egg pullets,
19 broilers, roasters, turkey hens, turkey toms and ducks.

20 (c) "Poultry products" means eggs, poultry carcasses,
21 poultry by-products or any part thereof.

22 (d) "Processor" means any person engaged in the
23 business of obtaining live poultry or poultry products by purchase
24 under a poultry-growing arrangement for the purpose of slaughter
25 by such person or by another, or any person engaged in the
26 business of obtaining poultry eggs or the care of live poultry
27 under a poultry-growing arrangement.

28 (e) "Poultry-growing arrangement" means any grow-out
29 contract, marketing agreement or other arrangement under which a
30 poultry producer raises or cares for live poultry or poultry
31 products in accord with another's instructions.

32 SECTION 3. (1) No processor or grower shall engage in any
33 unfair, unjustly discriminatory or deceptive act or practice as
34 defined in this act in connection with any poultry or
35 poultry-growing contract.

36 (2) Unfair, unjustly discriminatory or deceptive acts and
37 practices include, but are not limited to, the following, each of
38 which is declared to be a violation of this act:

39 (a) A processor's using coercion, intimidation, the
40 threat of retaliation or the threat of contract termination or
41 cancellation to impose, demand, compel or dictate the terms,
42 payment or manner of payment or the signing of a contract by a
43 grower;

44 (b) A processor's canceling a grower's contract based
45 solely upon his ranking as it compares to the other growers;

46 (c) Any act or omission prohibited by the Packers and
47 Stockyards Act, 7 USCS Section 181 et seq., or the rules and
48 regulations promulgated thereunder;

49 (d) A grower's failing to maintain buildings,
50 equipment, ingress or egress in a manner that is acceptable within
51 industry standards;

52 (e) A grower's failing to diligently follow the written
53 day-to-day poultry management practices of the processor.

54 SECTION 4. All processors and growers shall engage in the
55 following best management practices:

56 (a) All live birds shall be weighed by a bonded
57 weighmaster on certified scales. Provisions shall be made for
58 alternate certified scales in the event the primary scales are
59 "red tagged" by the State Weights and Measures Department.
60 Growers, their family or employees, with proper identification,

61 shall be allowed to watch, without prior notice, live birds being
62 weighed.

63 (b) All feed shall be weighed under the same
64 arrangement as provided in paragraph (a) of this section,
65 including the observation of the weighing.

66 (c) Processors shall provide growers all documentation
67 that impacts a producer's settlement check, in a legible manner,
68 including, but not limited to:

69 (i) Grower's copy of United States Department of
70 Agriculture form 9061-2.

71 (ii) A loading ticket, at the time of catching,
72 that gives truck number, trailer number, number of birds per coop
73 and number of full coops.

74 (iii) Copy of weigh tickets for live birds.

75 (iv) A copy of medication charges, either at the
76 time of delivery or with settlement check.

77 (v) A sample computation of the payment formula,
78 using the growers actual figures. Growers shall produce and
79 provide several sample computation formulas.

80 (d) Processors shall use all available means to insure
81 proper handling of birds from farm to plant. Damage by catching
82 crew of grower's equipment or facilities shall be reimbursed by
83 his processor.

84 (e) Processors shall not require a grower to purchase
85 or construct additional buildings, equipment or facilities, or
86 additions, modifications or improvements thereto, after the
87 parties have entered into a contract unless fair and equitable
88 premiums are paid by the processor as compensation. A processor
89 shall test, upon request of a grower, new equipment that a grower
90 wishes to be added to the processor's approved equipment list.

91 (f) Growers and their immediate family who are employed
92 by the companies in live production shall not be ranked with other
93 contract growers.

94 (g) Growers may join or assist any organization or
95 association of their choice. A grower's membership in any
96 organization shall not affect his settlement in any way.

97 (h) Where requested and available, the processor shall
98 furnish the grower a copy of veterinary reports within forty-eight
99 (48) hours of the time the report is received by the processor.
100 The processor shall share with the grower all known information
101 and causes dealing with problematic situations that affect farm
102 management, including parent stock and age.

103 (i) Processors shall provide growers with information
104 on feed delivery procedures. When requested, feed delivery trucks
105 shall be sealed at the plant with corresponding, numbered seals
106 that shall be listed on the feed delivery ticket. The seal shall
107 not be broken unless the grower is not available at the time of
108 actual delivery. The grower may request that he be notified by
109 telephone before the truck leaves the feed mill.

110 (j) Processors shall provide producers applicable
111 management guidelines for broiler, pullet or breeder management.

112 SECTION 5. All contracts shall be entered into with a sense
113 of fairness, and there is an implied promise of good faith as
114 defined in Section 75-1-201(19) by all parties in any poultry or
115 poultry products contract between a processor and a grower.

116 SECTION 6. This act shall take effect and be in force from
117 and after its passage.