

103^D CONGRESS
1ST SESSION

H. R. 653

To amend the Watermelon Research and Promotion Act to expand operation of the Act to the entire United States, to authorize the revocation of the refund provision of the Act, to modify the referendum procedures of the Act, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 27, 1993

Mr. ENGLISH of Oklahoma introduced the following bill; which was referred to the Committee on Agriculture

A BILL

To amend the Watermelon Research and Promotion Act to expand operation of the Act to the entire United States, to authorize the revocation of the refund provision of the Act, to modify the referendum procedures of the Act, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Watermelon Research and Promotion Improvement Act
6 of 1993”.

1 (b) TABLE OF CONTENTS.—The table of contents for
 2 this Act is as follows:

- Sec. 1. Short title and table of contents.
- Sec. 2. Change to majority vote in referendum procedures.
- Sec. 3. Expansion of watermelon plans to entire United States.
- Sec. 4. Clarification of differences between producers and handlers.
- Sec. 5. Clarification of collection of assessments by the board.
- Sec. 6. Changes to assessment rate not subject to formal rulemaking.
- Sec. 7. Elimination of watermelon assessment refund.
- Sec. 8. Equitable treatment of watermelon plans.
- Sec. 9. Separate consideration of watermelon plan amendments.

3 **SEC. 2. CHANGE TO MAJORITY VOTE IN REFERENDUM PRO-**
 4 **CEDURES.**

5 Section 1653 of the Watermelon Research and Pro-
 6 motion Act (7 U.S.C. 4912) is amended—

- 7 (1) by inserting “(a)” after “SEC. 1653.”;
- 8 (2) by striking the third sentence; and
- 9 (3) inserting at the end the following new sub-
 10 section:

11 “(b) A plan issued under this subtitle shall not take
 12 effect unless the Secretary determines that the issuance
 13 of the plan is approved or favored by a majority of the
 14 producers and handlers (and importers if subject to the
 15 plan) voting in the referendum.”.

16 **SEC. 3. EXPANSION OF WATERMELON PLANS TO ENTIRE**
 17 **UNITED STATES.**

18 (a) DEFINITIONS.—Section 1643 of the Watermelon
 19 Research and Promotion Act (7 U.S.C. 4902(3)) is
 20 amended—

1 (1) in paragraph (3), by striking “the forty-
2 eight contiguous States of”; and

3 (2) by adding at the end the following new
4 paragraph:

5 “(10) The term ‘United States’ means each of
6 the several States and the District of Columbia.”.

7 (b) ISSUANCE OF PLANS.—The last sentence of sec-
8 tion 1644 of such Act (7 U.S.C. 4903) is amended by
9 striking “the forty-eight contiguous States of”.

10 **SEC. 4. CLARIFICATION OF DIFFERENCES BETWEEN PRO-**
11 **DUCERS AND HANDLERS.**

12 Section 1647(c) of the Watermelon Research and
13 Promotion Act (7 U.S.C. 4906(c)) is amended by adding
14 at the end the following:

15 “(3) If a producer purchases watermelons from other
16 producers, in a combined total volume that is equal to 25
17 percent or more of the producer’s own production, the pro-
18 ducer shall be eligible to serve on the Board only as a
19 representative of handlers and not as a representative of
20 producers.”.

21 **SEC. 5. CLARIFICATION OF COLLECTION OF ASSESSMENTS**
22 **BY THE BOARD.**

23 Section 1647 of the Watermelon Research and Pro-
24 motion Act (7 U.S.C. 4906) is amended—

1 (1) in subsection (f), by striking “collection of
2 the assessments by the Board” and inserting “pay-
3 ment of the assessments to the Board.”; and

4 (2) in paragraphs (1) and (3) of subsection (g),
5 by striking “collected” and inserting “received”.

6 **SEC. 6. CHANGES TO ASSESSMENT RATE NOT SUBJECT TO**
7 **FORMAL RULEMAKING.**

8 Section 1647(f) of the Watermelon Research and
9 Promotion Act (7 U.S.C. 4906(f)), as amended by section
10 5(1), is further amended by adding at the end the follow-
11 ing new sentences: “In fixing or changing the rate of as-
12 sessment pursuant to the plan, the Secretary shall comply
13 with the notice and comment procedures established under
14 section 553 of title 5, United States Code. Sections 556
15 and 557 of such title shall not apply with respect to fixing
16 or changing the rate of assessment.”.

17 **SEC. 7. ELIMINATION OF WATERMELON ASSESSMENT RE-**
18 **FUND.**

19 Section 1647(h) of the Watermelon Research and
20 Promotion Act (7 U.S.C. 4906(h)) is amended—

21 (1) by inserting “(1) Except as provided in
22 paragraph (2)” after “(h)”; and

23 (3) by adding at the end the following new
24 paragraph:

1 “(2) If approved in the referendum required by sec-
2 tion 1655(b) relating to the elimination of the assessment
3 refund under paragraph (1), the Secretary shall amend
4 the plan which is in effect on the day before the date of
5 the enactment of the Watermelon Research and Promotion
6 Improvement Act of 1993 to eliminate such refund provi-
7 sion.”.

8 **SEC. 8. EQUITABLE TREATMENT OF WATERMELON PLANS.**

9 (a) DEFINITIONS.—Section 1643 of the Watermelon
10 Research and Promotion Act (7 U.S.C. 4902), as amended
11 by section 3(a), is further amended—

12 (1) in paragraph (3), by striking the semicolon
13 at the end and inserting the following: “or imported
14 into the United States.”;

15 (2) by redesignating paragraphs (6) and (7) as
16 paragraphs (8) and (9), respectively; and

17 (3) by inserting after paragraph (5) the follow-
18 ing new paragraphs:

19 “(6) The term ‘importer’ means any person
20 who imports watermelons into the United States.

21 “(7) The term ‘plan’ means an order issued by
22 the Secretary under this subtitle.”.

23 (b) ISSUANCE OF PLANS.—Section 1644 of such Act
24 (7 U.S.C. 4903), as amended by section 3(b), is further
25 amended—

1 (1) in the first sentence, by striking “and han-
2 dlers” and inserting “, handlers, and importers”;

3 (2) by striking the second sentence; and

4 (3) in the last sentence, by inserting “or im-
5 ported into the United States” before the period.

6 (c) NOTICE AND HEARINGS.—Section 1645(a) of
7 such Act (7 U.S.C. 4904(a)) is amended—

8 (1) in the first sentence, by striking “and han-
9 dlers” and inserting “, handlers, and importers”;
10 and

11 (2) in the last sentence, by striking “or han-
12 dlers” and inserting “, handlers, or importers”.

13 (d) MEMBERSHIP OF BOARD.—Section 1647(c) of
14 such Act (7 U.S.C. 4906(c)), as amended by section 4,
15 is further amended—

16 (1) by inserting “(1)” after “(c)”;

17 (2) in the second sentence, by striking “pro-
18 ducer and handler members” and inserting “other
19 members”; and

20 (3) by adding at the end the following new
21 paragraph:

22 “(2) If importers are subject to the plan, the Board
23 shall also include a single representative of importers who
24 shall be appointed by the Secretary from nominations sub-
25 mitted by importers in such manner as may be prescribed

1 by the Secretary. If importers are subject to the plan and
2 fail to select a nominee for appointment to the Board, the
3 Secretary may appoint any importer as the representative
4 of importers.”.

5 (e) ASSESSMENTS.—Section 1647(g) of such Act (7
6 U.S.C. 4906(g)), as amended by section 5(2), is further
7 amended—

8 (1) in paragraph (4)—

9 (A) by striking “(4) assessments” and in-
10 serting “(4) Assessments”; and

11 (B) by inserting “in the case of producers
12 and handlers” after “such assessments”; and

13 (2) by adding at the end the following new
14 paragraph:

15 “(5) If importers are subject to the plan, an as-
16 sessment shall also be made on watermelons im-
17 ported into the United States by such importers.
18 The rate of assessment for importers (if subject to
19 the plan) shall be equal to the combined rate for
20 producers and handlers.”.

21 (f) REFUNDS.—Section 1647(h) of such Act (7
22 U.S.C. 4906(h)), as amended by section 7, is further
23 amended—

1 (1) by inserting after “or handler” the first two
2 places it appears the following: “(or importer if sub-
3 ject to the plan)”; and

4 (2) by striking “or handler” the last place it
5 appears and inserting “, handler, or importer”.

6 (g) ASSESSMENT PROCEDURES.—Section 1649 of
7 such Act (7 U.S.C. 4908) is amended—

8 (1) in subsection (a)—

9 (A) by inserting “(1)” after “(a)”; and

10 (B) by adding at the end the following new
11 paragraph:

12 “(2) If importers are subject to the plan, each im-
13 porter required to pay assessments under the plan shall
14 be responsible for payment to the Board, as it may direct,
15 of the assessment. The assessment on imported water-
16 melons shall be equal to the combined rate for domestic
17 producers and handlers and shall be paid by the importer
18 to the Board at the time of the entry of the watermelons
19 into the United States. Each such importer shall maintain
20 a separate record including the total quantity of water-
21 melons imported into the United States that are included
22 under the terms of the plan, as well as those that are ex-
23 empt under such plan, and shall indicate such other infor-
24 mation as may be prescribed by the Board. No more than

1 one assessment shall be made on any imported water-
2 melons.”;

3 (2) in subsection (b), by inserting “and import-
4 ers” after “Handlers”; and

5 (3) in subsection (c)(1), by inserting “or im-
6 porters” after “handlers”.

7 (h) INVESTIGATIONS.—Section 1652(a) of such Act
8 (7 U.S.C. 4911(a)) is amended—

9 (1) in the first sentence, by striking “a handler
10 or any other person” by inserting “a person”;

11 (2) in the fourth sentence, by inserting “(or an
12 importer if subject to the plan)” after “a handler”;
13 and

14 (3) in the last sentence, by striking “the han-
15 dler or other person” and inserting “the person”.

16 (i) REFERENDUM.—Section 1653 of such Act (7
17 U.S.C. 4912), as amended by section 2, is further amend-
18 ed—

19 (1) in the first sentence—

20 (A) by striking “and handlers” both places
21 it appears and inserting “, handlers, and im-
22 porters”; and

23 (B) by striking “or handling” and insert-
24 ing “, handling, or importing”; and

25 (2) in the fourth sentence—

1 (A) by striking “or handler” and inserting
2 “, handler, or importer”; and

3 (B) by striking “or handled” and inserting
4 “, handled, or imported”.

5 (j) TERMINATION OF PLANS.—Section 1654(b) of
6 such Act (7 U.S.C. 4913(b)) is amended—

7 (1) in the first sentence—

8 (A) by striking “10 per centum or more”
9 and inserting “at least 10 percent of the com-
10 bined total”; and

11 (B) by striking “and handlers” both places
12 it appears and inserting “, handlers, and im-
13 porters”; and

14 (2) in the second sentence—

15 (A) by striking “or handle” and inserting
16 “, handle, or import”;

17 (B) by striking “50 per centum” and in-
18 serting “50 percent of the combined total”.

19 (C) by striking “or handled by the han-
20 dlers,” and inserting “, handled by the han-
21 dlers, and imported by the importers”.

22 (k) CONFORMING AND TECHNICAL AMENDMENTS.—
23 Such Act is further amended—

1 (1) in section 1642(a)(5) (7 U.S.C.
2 4901(a)(5)), by striking “and handling” and insert-
3 ing “handling, and importing”;

4 (2) in the first sentence of section 1642(b) (7
5 U.S.C. 4901(b))—

6 (A) by inserting “, or imported into the
7 United States,” after “harvested in the United
8 States”; and

9 (B) by striking “produced in the United
10 States”;

11 (3) in section 1643 (7 U.S.C. 4902), as amend-
12 ed by subsection (a) and section 3—

13 (A) by striking “subtitle—” and inserting
14 “subtitle:”;

15 (B) in paragraphs (1), (2), (3), (4), and
16 (5), by striking “the term” and inserting “The
17 term”;

18 (C) in paragraphs (1), (2), (4), and (5), by
19 striking the semicolon at the end and inserting
20 a period;

21 (D) in paragraph (8), as redesignated by
22 subsection (a)(2)—

23 (i) by striking “the term” and insert-
24 ing “The term”; and

1 (ii) by striking “; and” and inserting
2 a period; and

3 (E) in paragraph (9), as redesignated by
4 subsection (a)(2)—

5 (i) by striking “the term” and insert-
6 ing “The term”; and

7 (ii) by striking “1644” and inserting
8 “1647”; and

9 (4) in section 1647(g) (7 U.S.C. 4906(g)), as
10 amended by subsection (e) and section 5(2)—

11 (A) by striking “that—” and inserting
12 “the following:”;

13 (B) in paragraph (1)—

14 (i) by striking “(1) funds” and insert-
15 ing “(1) Funds”; and

16 (ii) by striking the semicolon at the
17 end and inserting a period;

18 (C) in paragraph (2)—

19 (i) by striking “(2) no” and inserting
20 “(2) No”; and

21 (ii) by striking the semicolon at the
22 end and inserting a period;

23 (D) in paragraph (3)—

24 (i) by striking “(3) no” and inserting
25 “(3) No”; and

1 (ii) by striking “; and” and inserting
2 a period.

3 **SEC. 9. SEPARATE CONSIDERATION OF WATERMELON**
4 **PLAN AMENDMENTS.**

5 Section 1655 of the Watermelon Research and Pro-
6 motion Act (7 U.S.C. 4914) is amended—

7 (1) by inserting “(a)” before “The provisions”;
8 and

9 (2) by adding at the end the following new sub-
10 sections:

11 “(b) The amendments described in subsection (c)
12 that are required to be made by the Secretary to a plan
13 as a result of the amendments made by the Watermelon
14 Research and Promotion Improvement Act of 1993 shall
15 be subject to separate line item voting and approval in
16 a referendum conducted pursuant to section 1653 before
17 the Secretary alters the plan as in effect on the day before
18 the date of the enactment of such Act.

19 “(c) The amendments referred to in subsection (b)
20 are those amendments required under—

21 “(1) section 7 of the Watermelon Research and
22 Promotion Improvement Act of 1993 relating to the
23 elimination of the assessment refund; and

24 “(2) section 8 of such Act relating to subjecting
25 importers to the terms and conditions of the plan.

1 “(d) When conducting the referendum relating to
2 subjecting importers to the terms and conditions of a plan,
3 the Secretary shall include as eligible voters in the referen-
4 dum producers, handlers, and importers who would be
5 subject to the plan if the amendments are approved.”.

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