

105TH CONGRESS  
1ST SESSION

# S. 1538

To amend the Honey Research, Promotion, and Consumer Information Act to improve the honey research, promotion, and consumer information program, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

NOVEMBER 13, 1997

Mr. SANTORUM introduced the following bill; which was read twice and referred to the Committee on Agriculture, Nutrition, and Forestry

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## A BILL

To amend the Honey Research, Promotion, and Consumer Information Act to improve the honey research, promotion, and consumer information program, 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.**

4       This Act may be cited as the “Honey Research, Pro-  
5       motion, and Consumer Information Improvement Act of  
6       1997”.

1 **SEC. 2. FINDINGS AND PURPOSES.**

2 Section 2 of the Honey Research, Promotion, and  
3 Consumer Information Act (7 U.S.C. 4601) is amended—

4 (1) by striking the section heading and all that  
5 follows through “The Congress finds that:” and in-  
6 serting the following:

7 **“SEC. 2. FINDINGS AND PURPOSES.**

8 “(a) FINDINGS.—Congress makes the following find-  
9 ings:”;

10 (2) in paragraphs (6) and (7), by striking “and  
11 consumer education” each place it appears and in-  
12 serting “consumer education, and industry informa-  
13 tion”;

14 (3) by inserting after paragraph (7) the follow-  
15 ing:

16 “(8) The ability to develop and maintain purity  
17 standards for honey and honey products is critical to  
18 maintaining the consumer confidence, safety, and  
19 trust that are essential components of any undertak-  
20 ing to maintain and develop markets for honey and  
21 honey products.

22 “(9) Research directed at improving the cost ef-  
23 fectiveness and efficiency of beekeeping, as well as  
24 developing better means of dealing with pest and  
25 disease problems, is essential to keeping honey and  
26 honey product prices competitive and facilitating

1 market growth as well as maintaining the financial  
2 well-being of the honey industry.

3 “(10) Research involving the quality, safety,  
4 and image of honey and honey products and how  
5 that quality, safety, and image may be affected dur-  
6 ing the extraction, processing, packaging, marketing,  
7 and other stages of the honey and honey product  
8 production and distribution process, is highly impor-  
9 tant to building and maintaining markets for honey  
10 and honey products.”; and

11 (4) by striking subsection (b) and inserting the  
12 following:

13 “(b) PURPOSES.—The purposes of this Act are—

14 “(1) to authorize the establishment of an or-  
15 derly procedure for the development and financing,  
16 through an adequate assessment, of an effective,  
17 continuous, and nationally coordinated program of  
18 promotion, research, consumer education, and indus-  
19 try information designed to—

20 “(A) strengthen the position of the honey  
21 industry in the marketplace;

22 “(B) maintain, develop, and expand do-  
23 mestic and foreign markets and uses for honey  
24 and honey products; and

1           “(C) maintain and improve the competi-  
2           tiveness and efficiency of the honey industry;  
3           and

4           “(2) to maintain and expand the markets for all  
5           honey and honey products in a manner that—

6           “(A) is not designed to maintain or expand  
7           any individual producer’s, importer’s or han-  
8           dler’s share of the market;

9           “(B) does not compete with or replace in-  
10          dividual advertising or promotion efforts de-  
11          signed to promote individual brand name or  
12          trade name honey or honey products; and

13          “(C) authorizes and funds programs that  
14          result in government speech promoting govern-  
15          ment objectives.

16          “(c) ADMINISTRATION.—Nothing in this Act—

17          “(1) prohibits the sale of various grades of  
18          honey;

19          “(2) provides for control of honey production;

20          “(3) limits the right of the individual honey  
21          producer to produce honey; or

22          “(4) creates a trade barrier to honey produced  
23          in a foreign country.”.

1 **SEC. 3. DEFINITIONS.**

2 Section 3 of the Honey Research, Promotion, and  
3 Consumer Information Act (7 U.S.C. 4602) is amended—

4 (1) by striking paragraph (7) and inserting the  
5 following:

6 “(7) HANDLE.—

7 “(A) IN GENERAL.—The term ‘handle’  
8 means to process, package, sell, transport, pur-  
9 chase, or in any other way place or cause to be  
10 placed, honey or a honey product in commerce.

11 “(B) INCLUSION.—The term ‘handle’ in-  
12 cludes selling unprocessed honey that will be  
13 consumed or used without further processing or  
14 packaging.

15 “(C) EXCLUSIONS.—The term ‘handle’  
16 does not include—

17 “(i) the transportation of unprocessed  
18 honey by a producer to a handler;

19 “(ii) the transportation by a commer-  
20 cial carrier of honey, whether processed or  
21 unprocessed, for a handler or producer; or

22 “(iii) the purchase of honey or a  
23 honey product by a consumer or other end-  
24 user of the honey or honey product.”;

25 (2) in paragraph (15) by adding “or ‘National  
26 Honey Board’ ” following “‘Honey Board’ ”; and

1 (3) by adding at the end the following:

2 “(19) DEPARTMENT.—The term ‘Department’  
3 means the United States Department of Agriculture.

4 “(20) HONEY PRODUCTION.—The term ‘honey  
5 production’ means all beekeeping operations related  
6 to—

7 “(A) managing honey bee colonies to  
8 produce honey;

9 “(B) harvesting honey from the colonies;

10 “(C) extracting honey from the honey-  
11 combs; and

12 “(D) preparing honey for sale for further  
13 processing.”

14 “(21) INDUSTRY INFORMATION.—The term ‘in-  
15 dustry information’ means information or a program  
16 that will lead to the development of new markets,  
17 new marketing strategies, or increased efficiency for  
18 the honey industry, or an activity to enhance the  
19 image of honey and honey products and of the honey  
20 industry.”;

21 “(22) NATIONAL HONEY MARKETING COOPERA-  
22 TIVE.—The term ‘national honey marketing coopera-  
23 tive’ means a cooperative that markets its products  
24 in at least 2 of the following 4 regions of the United  
25 States, as determined by the Secretary:

1           “(A) the Atlantic Coast, including the Dis-  
2           trict of Columbia and the Commonwealth of  
3           Puerto Rico;

4           “(B) the Mideast;

5           “(C) the Midwest; and

6           “(D) the Pacific, including the states of  
7           Alaska and Hawaii.”;

8           “(23) QUALIFIED NATIONAL ORGANIZATION  
9           REPRESENTING HANDLER INTERESTS.—The term  
10          ‘qualified national organization representing handler  
11          interests’ means an organization that the Secretary  
12          has certified as being eligible to recommend for nom-  
13          ination to the Committee handler, handler-importer,  
14          alternate handler, and alternate handler-importer,  
15          members of the Honey Board under section 4606(b)  
16          of this Act.”;

17          “(24) QUALIFIED NATIONAL ORGANIZATION  
18          REPRESENTING IMPORTER INTERESTS.—The term  
19          ‘qualified national organization representing im-  
20          porter interests’ means an organization that the Sec-  
21          retary has certified as being eligible to recommend  
22          for nomination to the Committee importer, handler-  
23          importer, alternate importer, and alternate handler-  
24          importer members of the Honey Board under section  
25          4606(b) of this Act.”;

1           (4) by reordering the paragraphs so that they  
2           are in alphabetical order by term defined and reded-  
3           signating the paragraphs accordingly.

4 **SEC. 4. HONEY RESEARCH, PROMOTION, AND CONSUMER**  
5 **INFORMATION ORDER.**

6           Section 4 of the Honey Research, Promotion, and  
7 Consumer Information Act (7 U.S.C. 4603) is amended  
8 by inserting “and regulations” following “orders”.

9 **SEC. 5. NOTICE AND HEARING.**

10          Section 5 of the Honey Research, Promotion, and  
11 Consumer Information Act (7 U.S.C. 4604) is amended  
12 to read as follows:

13          “(a) NOTICE AND COMMENT.—Whenever the Sec-  
14 retary has reason to believe that the issuance of an order,  
15 an amendment to an order, or regulations pursuant to an  
16 order will assist in carrying out the purposes of this Act,  
17 the Secretary shall comply with the notice and comment  
18 procedures established under section 553 of title 5, United  
19 States Code. Sections 556 and 557 of such title shall not  
20 apply with respect to issuance of an order, an amendment  
21 to an order, or regulations pursuant to an order.

22          “(b) PROPOSAL OF AN ORDER.—A proposal for an  
23 order may be submitted to the Secretary by any organiza-  
24 tion or interested person affected by the provisions of this  
25 Act.”.

1 **SEC. 6. FINDINGS AND ISSUANCE OF ORDER.**

2 Section 6 of the Honey Research, Promotion, and  
3 Consumer Information Act (7 U.S.C. 4605) is amended  
4 to read as follows:

5 “After notice of and opportunity for comment has  
6 been provided in accordance with section 5 of this Act,  
7 the Secretary shall issue an order, an amendment to an  
8 order, or a regulation pursuant to an order, if the Sec-  
9 retary finds, and sets forth in such order, amendment to  
10 an order, or regulation, that the issuance of such order,  
11 amendment to an order, or regulation pursuant to an  
12 order, and all the terms and conditions thereof will assist  
13 in carrying out the purposes of this Act.”.

14 **SEC. 7. REQUIRED TERMS OF AN ORDER.**

15 (a) NATIONAL HONEY NOMINATIONS COMMITTEE.—  
16 Section 7(b) of the Honey Research, Promotion, and  
17 Consumer Information Act (7 U.S.C. 4606(b)) is amend-  
18 ed—

19 (1) in paragraph (2) by striking “, except” and  
20 all that follows to the period and inserting “except  
21 that the term of appointments to the Committee  
22 may be staggered periodically as determined by the  
23 Secretary”;

24 (2) in paragraph (5)—

25 (A) in the second sentence by striking  
26 “after the first annual meeting”; and

1 (B) in the third sentence by striking “per  
2 centum” and inserting “percent”.

3 (b) HONEY BOARD.—Section 7(c) of the Honey Re-  
4 search, Promotion, and Consumer Information Act (7  
5 U.S.C. 4606(c)) is amended—

6 (1) by redesignating paragraphs (3) through  
7 (6) as paragraphs (7) through (10), respectively;

8 (2) in paragraph (2) by striking subparagraphs  
9 (B), (C), (D), and (E) and all that follows and in-  
10 serting the following:

11 “(B)(i) two members who are handlers of  
12 honey appointed from nominations submitted by  
13 the Committee made from recommendations to  
14 the Committee from qualified national organiza-  
15 tions representing handler interests; and

16 “(ii) if approved in a referendum, two  
17 members who are handlers of honey who, dur-  
18 ing any 3 of the preceding 5 years were also  
19 importers of record of at least 40,000 pounds  
20 of honey, appointed from nominations submit-  
21 ted by the Committee made from recommenda-  
22 tions to the Committee from qualified national  
23 organizations representing handler interests or  
24 qualified national organizations representing  
25 importer interests or from individual handlers

1 or importers who have paid assessments to the  
2 Honey Board on imported honey if the Sec-  
3 retary determines that there is not a qualified  
4 national organization representing either han-  
5 dler or importer interests;

6 “(C)(i) two members who are either im-  
7 porters or exporters, of which at least one shall  
8 be an importer, appointed from nomination sub-  
9 mitted by the Committee from recommenda-  
10 tions to the Committee by industry organiza-  
11 tions representing importer and exporter inter-  
12 ests; or

13 “(ii) if approved in a referendum, two  
14 members who are importers appointed from  
15 nominations submitted by the Committee made  
16 from recommendations to the Committee from  
17 qualified national organizations representing  
18 importer interests or from individual importers  
19 who have paid assessments to the Honey Board  
20 on imported honey if the Secretary determines  
21 that there is not a qualified national organiza-  
22 tion representing importer interests; and

23 “(D) one member who is an officer, direc-  
24 tor, or employee of a national honey marketing  
25 cooperative appointed from nominations submit-

1           ted by the Committee made from recommenda-  
2           tions to the Committee from qualified national  
3           honey marketing cooperatives.

4           “(3) ALTERNATES.—The Committee shall sub-  
5           mit nominations for an alternate for each member of  
6           the Honey Board described in paragraph (2). An al-  
7           ternate shall be appointed in the same manner as a  
8           member and shall serve when the member is absent  
9           from a meeting or is disqualified.

10          “(4) RECONSTITUTION.—

11                 “(A) IN GENERAL.—If approved in a ref-  
12                 erendum conducted pursuant to section 13(g)  
13                 and in accordance with rules issued by the Sec-  
14                 retary, the Honey Board shall review the geo-  
15                 graphic distribution of the quantities of domes-  
16                 tically produced honey assessed under the order  
17                 and changes in the annual average percentage  
18                 of assessments owed by importers under the  
19                 order relative to assessments owed by producers  
20                 and handlers of domestic honey, including  
21                 whether any changes in assessments owed on  
22                 imported quantities are owed by importers de-  
23                 scribed in paragraph 5(B) or whether they are  
24                 handlers who also import honey as described in  
25                 paragraph 2(B)(ii) and, if warranted and in ac-

1 cordance with this subsection, recommend to  
2 the Secretary—

3 “(i) changes in the regional represen-  
4 tation of honey producers established by  
5 the Secretary;

6 “(ii) the reallocation of handler-im-  
7 porter seats under paragraph (2)(B)(ii) as  
8 handler seats under paragraph (2)(B)(i) or  
9 the reallocation of importer seats under  
10 paragraph (2)(C) as handler-importer  
11 seats under paragraph (2)(B)(ii) or the re-  
12 allocation of handler-importer seats as im-  
13 porter seats under paragraph (2)(C) to re-  
14 flect any changes in the proportion of do-  
15 mestic and imported honey assessed under  
16 the order or the source of assessments on  
17 imported honey; or

18 “(iii) the addition of members to the  
19 Board under either paragraphs (2)(A),  
20 (2)(B)(ii) or (2)(C) to reflect any changes  
21 in the proportion of domestic and imported  
22 honey assessed under the order.

23 “(B) SCOPE OF REVIEW.—The review re-  
24 quired under subparagraph (A) shall encompass

1 data from the 5 years preceding the year in  
2 which the review is conducted.

3 “(C) BASIS FOR RECOMMENDATIONS.—Ex-  
4 cept as provided in (E) below, recommendations  
5 made under subparagraph (A) shall be based on  
6 the 5-year average annual assessments, exclud-  
7 ing the two years containing the highest and  
8 lowest disparity between the proportion of as-  
9 sessments owed from imported and domestic  
10 honey, determined pursuant to the review that  
11 is conducted, including whether any change is  
12 from the assessments owed by importers de-  
13 scribed in paragraph 5(B) or from those owed  
14 by handlers who also import honey as described  
15 in paragraph (2)(B)(ii). Only if the following  
16 proportions change by more than 6 percent  
17 from the base period proportion found in a  
18 prior review shall the Board be required to rec-  
19 ommend changes pursuant to subparagraphs  
20 (A)(ii) and (A)(iii) respectively—

21 “(i) the proportion of assessments  
22 owed by handler-importers under para-  
23 graph (2)(B)(ii) compared with the propor-  
24 tion of assessments owed by importers  
25 under paragraph (2)(C); or

1                   “(ii) the proportion of assessments  
2                   owed by importers compared with those  
3                   owed on domestic honey by producers and  
4                   handlers.

5                   “(D) TIMING OF REVIEW.—The Honey  
6                   Board shall conduct the reviews required under  
7                   this subsection not more than once in each 5-  
8                   year period with the first review to be con-  
9                   ducted prior to the first continuation referen-  
10                  dum conducted pursuant to section 13(c) fol-  
11                  lowing the referendum provided for in section  
12                  13(f).

13                  “(E) BASE PERIOD FOR REVIEW.—The  
14                  base period proportions for determining the  
15                  magnitude of change under subparagraph (C)  
16                  shall be those found in the prior review con-  
17                  ducted under this subsection except that for the  
18                  first review conducted under subparagraph (D),  
19                  the base period proportions shall be those that  
20                  existed in the 1996 fiscal year of the Honey  
21                  Board.

22                  “(5) RESTRICTIONS ON NOMINATION AND AP-  
23                  POINTMENT.—

24                  “(A) PRODUCER-PACKERS AS PRODUC-  
25                  ERS.—No producer-packer who, during any 3 of

1 the preceding 5 years, purchased for resale  
2 more honey than the producer-packer produced  
3 shall be eligible for nomination or appointment  
4 to the Honey Board as a producer described in  
5 paragraph (2)(A) or as an alternate to a pro-  
6 ducer.

7 “(B) IMPORTERS.—No importer who, dur-  
8 ing any 3 of the preceding 5 years, did not re-  
9 ceive at least 75 percent of the gross income  
10 generated by the sale of honey and honey prod-  
11 ucts from the sale of imported honey and honey  
12 products shall be eligible for nomination or ap-  
13 pointment to the Honey Board as an importer  
14 described in paragraph (2)(C) or an alternate  
15 to an importer.

16 “(6) CERTIFICATION OF ORGANIZATIONS.—

17 “(A) IN GENERAL.—The eligibility of an  
18 organization to participate in the making of  
19 recommendations to the Committee for nomina-  
20 tion to the Board to represent handlers or im-  
21 porters under this section shall be certified by  
22 the Secretary.

23 “(B) ELIGIBILITY CRITERIA.—Subject to  
24 subparagraphs (D) and (E), the Secretary shall  
25 certify an organization that the Secretary deter-

1 mines meets the eligibility criteria established  
2 by the Secretary under this paragraph.

3 “(C) FINALITY.—An eligibility determina-  
4 tion of the Secretary under this paragraph shall  
5 be final.

6 “(D) BASIS FOR CERTIFICATION.—Certifi-  
7 cation under this paragraph shall be based on,  
8 in addition to other available information, a fac-  
9 tual report submitted by the organization that  
10 contains information considered relevant and  
11 specified by the Secretary, including—

12 “(i) the geographic territory covered  
13 by the active membership of the organiza-  
14 tion;

15 “(ii) the nature and size of the active  
16 membership of the organization, including  
17 the proportion of the total number of ac-  
18 tive handlers or importers represented by  
19 the organization;

20 “(iii) evidence of the stability and per-  
21 manency of the organization;

22 “(iv) sources from which the operat-  
23 ing funds of the organization are derived;

24 “(v) the functions of the organization;  
25 and

1                   “(vi) the ability and willingness of the  
2                   organization to further the purposes of this  
3                   Act.

4                   “(E) PRIMARY CONSIDERATIONS.—A pri-  
5                   mary consideration in determining the eligibility  
6                   of an organization under this paragraph shall  
7                   be whether—

8                   “(i) the membership of the organiza-  
9                   tion consists primarily of handlers or im-  
10                  porters who derive a substantial quantity  
11                  of their income from sales of honey and  
12                  honey products; and

13                  “(ii) the organization has an interest  
14                  in the marketing of honey and honey prod-  
15                  ucts.

16                  “(F) INCLUSIVENESS.—As a condition of  
17                  certification under this paragraph, an organiza-  
18                  tion must agree to adopt a process to notify  
19                  non-members of the organization of Honey  
20                  Board nomination opportunities for which the  
21                  organization is certified to make recommenda-  
22                  tions to the Committee and to consider non-  
23                  members when making their nominations to the  
24                  Committee should non-members express interest  
25                  in serving on the Honey Board.”; and

1           (3) in paragraph (7) (as so redesignated) by  
2 striking “except” and all that follows through the  
3 end of the sentence and inserting the following: “ex-  
4 cept that appointments to the Honey Board may be  
5 staggered periodically, as determined by the Sec-  
6 retary, to maintain continuity of the Board among  
7 all members and among members representing par-  
8 ticular groups.”.

9           (c) ASSESSMENTS.—Section 7(e) of the Honey Re-  
10 search, Promotion, and Consumer Information Act (7  
11 U.S.C. 4606(e)) is amended—

12           (1) by redesignating paragraphs (2) and (3) as  
13 paragraphs (5) and (6) respectively;

14           (2) by striking paragraph (1) and inserting the  
15 following:

16           “(1) IN GENERAL.—The Honey Board shall ad-  
17 minister collection of the assessment provided for in  
18 this subsection, and may accept voluntary contribu-  
19 tions from other sources, to finance the expenses de-  
20 scribed in subsections (d) and (f).

21           “(2) RATE.—Except as provided by paragraph  
22 (3), the assessment rate shall be \$0.01 per pound  
23 (payable in the manner described in section 9),  
24 with—

1           “(A) in the case of honey produced in the  
2           United States, \$0.01 per pound payable by  
3           honey producers; and

4           “(B) in the case of honey imported into  
5           the United States, \$0.01 per pound payable by  
6           honey importers.

7           “(3) AMENDED RATE.—If approved in a ref-  
8           erendum, the assessment rate shall be \$0.02 per  
9           pound (payable in the manner described in section  
10          9), with—

11           “(A) in the case of honey produced in the  
12          United States—

13           “(i) \$0.01 per pound payable by  
14          honey producers; and

15           “(ii) \$0.01 per pound payable by han-  
16          dlers (including producer-packers); and

17           “(B) in the case of honey imported into  
18          the United States, the entire \$0.02 per pound  
19          payable by honey importers.

20           “(4) IMPORTERS AND PRODUCER-PACKERS.—  
21          For purposes of this subsection and sections 9, 12,  
22          and 13—

23           “(A) an importer shall be considered a  
24          handler with respect to \$0.01 per pound of the

1 assessment payable by importers under para-  
2 graph (3)(B); and

3 “(B) a producer-packer shall be considered  
4 a handler on all honey, including honey that  
5 they produce, that they handle with respect to  
6 the \$0.01 per pound assessment payable by  
7 handlers under paragraph (3)(A)(ii).”

8 (3) in paragraph (5) (as so redesignated) by  
9 striking subparagraph (B) and inserting the follow-  
10 ing:

11 (B) SMALL QUANTITIES.—

12 “(i) IN GENERAL.—A producer, pro-  
13 ducer-packer, handler, or importer, who  
14 produces, imports, or handles during a  
15 year less than 6,000 pounds of honey or  
16 honey products shall be exempt in that  
17 year from payment of an assessment on  
18 honey or honey products that the person  
19 distributes directly through local retail out-  
20 lets, as determined by the Secretary, dur-  
21 ing that year.”

22 “(ii) INAPPLICABILITY.—If a person  
23 no longer meets the requirements of clause  
24 (i) for an exemption, the person shall—

1                   “(I) file a report with the Honey  
2                   Board in the form and manner pre-  
3                   scribed by the Board; and

4                   “(II) pay an assessment on or  
5                   before March 15 of the subsequent  
6                   year on all honey produced, imported,  
7                   or handled by the person during the  
8                   year in which the person no longer  
9                   meets the requirement of clause (i) for  
10                  an exemption.”; and

11                  (4) in paragraph (6) (as so redesignated)—

12                   (A) by inserting “handler,” after “pro-  
13                   ducer-packer” in both places it occurs;

14                   (B) by inserting “, handler,” after the  
15                   third occurrence of “producer”; and

16                   (C) by striking “(2)” and inserting “(5)”.

17                  (d) USE OF FUNDS.—Section 7(f) of the Honey Re-  
18                  search, Promotion, and Consumer Information Act (7  
19                  U.S.C. 4606(f)) is amended—

20                   (1) in the first sentence, by striking “from the  
21                   assessments”;

22                   (2) by designating the first sentence (as amend-  
23                   ed) and the second sentence as paragraphs (1) and  
24                   (3), respectively; and

1           (3) by inserting after paragraph (1) (as to des-  
2           ignated) the following:

3           “(2) RESEARCH PROJECTS.—

4                   “(A) IN GENERAL.—If approved in ref-  
5                   erendum, the Honey Board shall reserve at  
6                   least 8 percent of all assessments collected dur-  
7                   ing a year for expenditure on approved research  
8                   projects designed to advance the cost effective-  
9                   ness, competitiveness, efficiency, pest and dis-  
10                  ease control, and other management aspects of  
11                  beekeeping and honey production.

12                   “(B) CARRYOVER.—If all funds reserved  
13                   under subparagraph (A) are not allocated to  
14                   approved research projects in a year, any re-  
15                   served funds remaining unallocated shall be car-  
16                   ried forward for allocation and expenditure  
17                   under subparagraph (A) in subsequent years.”.

18           (e) FALSE OR UNWARRANTED CLAIMS OR STATE-  
19           MENTS.—Section 7(g) of the Honey Research, Promotion,  
20           and Consumer Information Act (7 U.S.C. 4606(g)) is  
21           amended by striking “with assessments collected” and in-  
22           serting “by the Honey Board”.

23           (f) INFLUENCING GOVERNMENTAL POLICY OR AC-  
24           TION.—Section 7(h) of the Honey Research, Promotion,  
25           and Consumer Information Act (7 U.S.C. 4606(h)) is

1 amended by striking “through assessments authorized by”  
 2 and inserting “by the Honey Board under”.

3 **SEC. 8. PERMISSIVE TERMS AND PROVISIONS.**

4 Section 8 of the Honey Research, Promotion, and  
 5 Consumer Information Act (7 U.S.C. 4607) is amended  
 6 by adding at the end the following:

7 “(8) INSPECTION AND MONITORING.—

8 “(A) IN GENERAL.—If approved in a ref-  
 9 erendum, providing authority for the develop-  
 10 ment of recommendations for programs and  
 11 rules and regulations for the approval of the  
 12 Secretary regarding purity standards for honey  
 13 and honey products with the intent to maintain  
 14 a positive and wholesome marketing image for  
 15 honey and honey products.

16 “(B) INSPECTION AND MONITORING SYS-  
 17 TEM.—

18 “(i) INSPECTION.—Any program, rule  
 19 or regulation issued under this subsection  
 20 may provide for the inspection, by the Sec-  
 21 retary, of honey and honey products being  
 22 sold for domestic consumption and for ex-  
 23 port.

24 “(ii) MONITORING SYSTEM.—The  
 25 Honey Board may develop recommenda-

1           tions for the approval of the Secretary for  
2           a system for monitoring the purity of  
3           honey and honey products being sold for  
4           domestic consumption and for export.

5           “(C) COORDINATION WITH OTHER FED-  
6           ERAL AGENCIES.—The Secretary may coordi-  
7           nate, to the maximum extent practicable, with  
8           the head of any other Federal agency, as it re-  
9           lates to ensuring compliance with labeling or  
10          other issues related to the purity of honey and  
11          the enforcement of any noncompliance with  
12          rules or regulations issued under this Act or  
13          rules and regulations issued by any other Fed-  
14          eral agency.

15          “(D) AUTHORITY TO ISSUE REGULA-  
16          TIONS.—The Secretary is authorized to issue  
17          rules and regulations to establish purity stand-  
18          ards as they relate to honey and honey prod-  
19          ucts.

20          “(E) VIOLATIONS.—Any persons violating  
21          any rule or regulation issued pursuant to this  
22          subsection shall be subject to enforcement  
23          under section 11 of this Act.

24          “(9) VOLUNTARY QUALITY PROGRAM.—

1           “(A) IN GENERAL.—In addition to or inde-  
2           pendent of any programs, rules or regulations  
3           issued under subsection (8) above, the Honey  
4           Board, with the approval of the Secretary, may  
5           establish and carry out a voluntary quality as-  
6           surance program regarding purity standards of  
7           honey and honey products.

8           “(B) COMPONENTS.—The program rec-  
9           ommended for the approval of the Secretary  
10          may include—

11           “(i) the establishment of an official  
12          Honey Board seal of approval to be dis-  
13          played on honey and honey products of  
14          producers, handlers, and importers partici-  
15          pating in the voluntary program found to  
16          meet such standards of purity as may be  
17          established;

18           “(ii) actions to encourage producers,  
19          handlers, and importers to participate in  
20          the program;

21           “(iii) actions to encourage consumers  
22          to purchase honey and honey products  
23          bearing the official seal of approval; and

24           “(iv) periodic inspections by the Sec-  
25          retary, or other parties approved by the

1 Secretary, of honey and honey products of  
2 producers, handlers, and importers partici-  
3 pating in the voluntary program.

4 “(C) DISPLAY OF SEAL OF APPROVAL.—To  
5 display an official seal of approval on its honey  
6 or honey product, a producer, handler, or im-  
7 porter must participate in the voluntary compli-  
8 ance program.”.

9 **SEC. 9. COLLECTION OF ASSESSMENTS.**

10 (a) NEW ASSESSMENT.—Section 9 of the Honey Re-  
11 search, Promotion, and Consumer Information Act (7  
12 U.S.C. 4608) is amended—

13 (1) by striking subsection (a) and inserting the  
14 following:

15 “(a) HANDLERS.—Except as otherwise provided in  
16 this section, a first handler of honey shall be responsible,  
17 at the time of first purchase,—

18 “(1) for the collection, and payment to the  
19 Honey Board, of the \$0.01 per pound assessment  
20 payable by a producer under section 7(e)(2)(A) or,  
21 if approved in a referendum, under section  
22 7(e)(3)(A)(i); and

23 “(2) if approved in a referendum, the payment  
24 to the Honey Board of an additional \$0.01 per

1 pound assessment payable by the handler under sec-  
2 tion 7(e)(3)(A)(ii).”;

3 (2) by striking subsection (c) and inserting the  
4 following:

5 “(c) IMPORTERS.—Except as otherwise provided in  
6 this section, an importer shall remit to the Honey Board,  
7 at the time of entry into the United States, the \$0.01 per  
8 pound assessment on imported honey and honey products  
9 required under section 7(e)(2)(B) or if approved in a ref-  
10 erendum, the \$0.02 per pound assessment on imported  
11 honey and honey products required under section  
12 7(e)(3)(B).”; and

13 (3) by striking subsection (e) and inserting the  
14 following:

15 “(e) PRODUCER-PACKERS—Except as otherwise pro-  
16 vided in this section, a producer-packer shall be respon-  
17 sible for the collection, and payment to the Honey Board,  
18 of—

19 “(1) the \$0.01 per pound assessment payable  
20 by the producer-packer under section 7(e)(2)(A) or,  
21 if approved in a referendum, under section  
22 7(e)(3)(A)(i) on honey they produce;

23 “(2) at the time of first purchase, the \$0.01 per  
24 pound assessment payable by a producer under sec-  
25 tion 7(e)(2)(A)(i) or, if approved in a referendum,

1 under section 7(e)(3)(A)(i) on honey purchased as a  
2 first handler by the producer-packer; and

3 “(3) if approved in a referendum, the payment  
4 to the Honey Board of an additional \$0.01 per  
5 pound assessment payable by the producer-packer  
6 under section 7(e)(3)(A)(ii).”.

7 (b) INSPECTION; BOOKS AND RECORDS.—Section 9  
8 of the Honey Research, Promotion, and Consumer Infor-  
9 mation Act (7 U.S.C. 4608) is amended by striking sub-  
10 section (f) and inserting the following:

11 “(f) INSPECTION; BOOKS AND RECORDS.—

12 “(1) IN GENERAL.—To make available to the  
13 Secretary and to the Honey Board information and  
14 data that are necessary to carry out this Act (includ-  
15 ing an order or regulation issued under this Act) a  
16 handler, importer, producer, or producer-packer re-  
17 sponsible for payment of an assessment under this  
18 Act, and a person receiving an exemption from an  
19 assessment under section 7(e)(5), shall—

20 “(A) maintain and make available for in-  
21 spection by the Secretary and the Honey Board  
22 such books and records as are required by the  
23 order and regulations issued under this Act;  
24 and

1           “(B) file reports at the times, in the man-  
2           ner, and having the content prescribed by the  
3           order and regulations, including but not limited  
4           to, the total number of bee colonies maintained,  
5           the quantity of honey produced, and the quan-  
6           tity of honey handled or imported.

7           “(2) EMPLOYEE OR AGENT.—To conduct an in-  
8           spection or review a report of an individual handler,  
9           importer, producer, or producer-packer under para-  
10          graph (1), an individual must be an employee or  
11          agent of the Department or the Honey Board, and  
12          not be a member or alternate member of the Honey  
13          Board.

14          “(3) CONFIDENTIALITY.—An employee or agent  
15          described in paragraph (2) shall be subject to the  
16          confidentiality requirements of subsection (g).”.

17          (c) CONFIDENTIALITY OF INFORMATION; DISCLO-  
18          SURE.—Section 9 of the Honey Research, Promotion, and  
19          Consumer Information Act (7 U.S.C. 4608) is amended  
20          by striking subsection (g) and inserting the following:

21          “(g) CONFIDENTIALITY OF INFORMATION; DISCLO-  
22          SURE.—

23          “(1) IN GENERAL.—All information obtained  
24          pursuant to subsection (f) of this section shall be  
25          kept confidential by all officers, employees, and

1 agents of the Department of Agriculture and of the  
2 Honey Board.

3 “(2) DISCLOSURE.—

4 “(A) only such information as the Sec-  
5 retary deems relevant shall be disclosed; and

6 “(B) only in a suit or administrative hear-  
7 ing brought at the request of the Secretary or  
8 to which the Secretary or any officer of the  
9 United States is a party involving the order  
10 with reference to which the information was  
11 furnished or acquired.

12 “(3) EXCEPTIONS.—Nothing in this section  
13 prohibits—

14 “(A) the issuance of general statements  
15 based upon the reports of a number of handlers  
16 subject to any order, if such statements do not  
17 identify the information furnished by any per-  
18 son; or

19 “(B) the publication, by direction of the  
20 Secretary, of the name of any person violating  
21 any order issued under this Act, together with  
22 a statement of the particular provisions of the  
23 order violated by such person.

24 “(4) VIOLATION.—Any person knowingly violat-  
25 ing this subsection, on conviction—

1 “(A) shall be subject—

2 “(i) to a fine of not more than  
3 \$1,000;

4 “(ii) to imprisonment for not more  
5 than 1 year; or

6 “(iii) both; and

7 “(B) if an officer or employee of the  
8 Honey Board or the Department, shall be re-  
9 moved from office.”.

10 (d) REFUNDS.—Section 9 of the Honey Research,  
11 Promotion, and Consumer Information Act (7 U.S.C.  
12 4608) is amended by striking subsection (h).

13 (e) ADMINISTRATION.—Section 9 of the Honey Re-  
14 search, Promotion, and Consumer Information Act (7  
15 U.S.C. 4608) (as amended by subsection (d)) is amended  
16 by inserting after subsection (g) the following:

17 “(h) ADMINISTRATION.—Administration and remit-  
18 tance of the assessments under this Act shall be con-  
19 ducted—

20 “(1) in the manner prescribed in the order and  
21 regulations issued under this Act; and

22 “(2) if approved in a referendum, in a manner  
23 that ensures that all honey and honey products are  
24 assessed a total of, but not more than, \$0.02 per

1 pound, including any producer or importer assess-  
2 ment.”.

3 (f) LIABILITY FOR ASSESSMENTS.—Section 9 of the  
4 Honey Research, Promotion, and Consumer Information  
5 Act (7 U.S.C. 4608) is amended in subsection (i)—

6 “(1) in the section heading to read as follows:

7 “LIABILITY FOR ASSESSMENTS.”;

8 “(2) by adding at the end the following: “If the  
9 United States Customs Service fails to collect an as-  
10 sessment from an importer or an importer fails to  
11 pay an assessment at the time of entry of honey and  
12 honey products into the United States under this  
13 section, the importer shall be responsible for the re-  
14 mission of the assessment to the Honey Board.”.

15 (g) CREDIT FOR QUALIFIED MARKETING PRO-  
16 MOTION ACTIVITIES.—Section 9 of the Honey Research,  
17 Promotion, and Consumer Information Act (7 U.S.C.  
18 4608) (as amended by subsection (f)) is amended by add-  
19 ing at the end the following:

20 “(j) CREDIT FOR QUALIFIED MARKETING PRO-  
21 MOTION ACTIVITIES.—

22 “(1) DEFINITION OF PAYEE.—In this sub-  
23 section, the term ‘payee’ means a handler, importer,  
24 or producer-packer.

1           “(2) CREDIT.—If approved in a referendum,  
2           the order and regulations issued under this Act shall  
3           require the Honey Board, in determining the assess-  
4           ment due from a payee, on the request of the payee,  
5           to grant the payee a credit of up to 50 percent of  
6           the direct expenditures of the payee for qualified  
7           marketing promotion activities (including paid ad-  
8           vertising) that promote the sale of honey or honey  
9           products.

10           “(3) LIMITATION.—For a year, a payee may re-  
11           ceive credits under paragraph (2) in a total amount  
12           not to exceed 50 percent of the \$0.01 per pound as-  
13           sessments required of handlers and producer-packers  
14           under section 7(e)(3)(A)(ii) and 25 percent of the  
15           \$0.02 per pound assessments required of importers  
16           under section 7(e)(3)(B) on the honey or honey  
17           products covered by the payee’s request for credit  
18           for the year.”.

19 **SEC. 10. PETITION AND REVIEW.**

20           Section 10(a) of the Honey Research, Promotion, and  
21           Consumer Information Act (7 U.S.C. 4609(a)) is amended  
22           to read as follows:

23           “(a) FILING OF PETITION; HEARING.—

1           “(1) IN GENERAL.—Any persons subject to an  
2 order may file, pursuant to paragraph (4), a written  
3 petition with the Secretary—

4           “(A) stating that the order or any provi-  
5 sion of the order or any obligation imposed in  
6 connection therewith is not in accordance with  
7 law; and

8           “(B) requesting—

9           “(i) a modification thereof; or

10           “(ii) to be exempted therefrom.

11           “(2) HEARING.—The petitioner shall thereupon  
12 be given an opportunity for a hearing upon the peti-  
13 tion, in accordance with regulations issued by the  
14 Secretary.

15           “(3) RULING; FINALITY.—After the hearing,  
16 the Secretary shall make a ruling on the petition  
17 which, if in accordance with law, shall be final.

18           “(4) STATUTE OF LIMITATIONS.—Any petition  
19 filed under this subsection challenging an order, any  
20 provision of the order, or any obligation imposed in  
21 connection with the order, must be filed within 2  
22 years after the later of—

23           “(A) the effective date of the order, provi-  
24 sion, or obligation subject to challenge in the  
25 petition; or

1                   “(B) the date the petitioner became sub-  
2                   ject to the order, provision, or obligation subject  
3                   to challenge in the petition.

4 **SEC. 11. REQUIREMENTS OF REFERENDUM.**

5           Section 12 of the Honey Research, Promotion, and  
6 Consumer Information Act (7 U.S.C. 4611) is amended  
7 to read as follows:

8 **“SEC. 12. REQUIREMENTS OF REFERENDUM.**

9           “(a) IN GENERAL.—For the purpose of ascertaining  
10 whether issuance of an order is approved by producers,  
11 importers, and in the case of an order assessing handlers,  
12 handlers, the Secretary shall conduct a referendum among  
13 those producers, importers, and, in the case of an order  
14 assessing handlers, handlers, not exempt under section  
15 7(e)(5) who, during a representative period determined by  
16 the Secretary, have been engaged in the production, im-  
17 portation, or handling of honey or honey products.

18           “(b)(1) EFFECTIVENESS OF ORDER.—No order is-  
19 sued under this Act shall be effective unless the Secretary  
20 determines that the issuance of the order is approved by  
21 a majority of the producers, importers, and if covered by  
22 the order, handlers voting in the referendum, and such  
23 majority represents more than 50 percent of the volume  
24 of honey produced, imported, and, if assessed under the

1 order, handled during the representative period by those  
2 voting in the referendum.

3 “(2) AMENDMENTS TO ORDERS.—With the exception  
4 of amendments implementing provisions of this Act which  
5 specifically provide for approval in a referendum, the Sec-  
6 retary is authorized to amend an existing order pursuant  
7 to administrative procedures in sections 5 and 6.

8 “(c) PRODUCER-PACKERS AND IMPORTERS.—In ac-  
9 cordance with section 7(e)(4), producer-packers and im-  
10 porters shall each have one vote as a handler as well as  
11 a producer or importer (unless exempt under section  
12 7(e)(5)) in all referenda involving orders assessing han-  
13 dlers to the extent the individual producer-packer or im-  
14 porter pays assessments as a handler. The volume of  
15 honey or honey products upon which such qualifying pro-  
16 ducer-packer or importer pays assessments as a handler  
17 shall be credited to such person’s vote as a handler pursu-  
18 ant to this subsection (in addition to any volume upon  
19 which they pay an assessment as a producer or importer  
20 that is credited to their vote as a producer or importer).

21 “(d) CONFIDENTIALITY.—The ballots and other in-  
22 formation or reports that reveal, or tend to reveal, the  
23 identity or vote of any producer, importer, or handler of  
24 honey shall be held strictly confidential and shall not be  
25 disclosed.”.

1 **SEC. 12. TERMINATION OR SUSPENSION.**

2 Section 13 of the Honey Research, Promotion, and  
3 Consumer Information Act (7 U.S.C. 4612) is amended  
4 to read as follows:

5 **“SEC. 13. TERMINATION OR SUSPENSION.**

6 “(a) **AUTHORITY OF SECRETARY.**—If the Secretary  
7 finds that an order issued under this Act, or any provision  
8 of the order, obstructs or does not tend to effectuate the  
9 purposes of this Act, the Secretary shall terminate or sus-  
10 pend the operation of the order or provision.

11 “(b) **DEFINITION OF PERSON.**—In this section, the  
12 term ‘person’ means a producer, importer or handler that  
13 is subject to assessment under the order upon which a ref-  
14 erendum is being conducted.

15 “(c) **PRODUCER-PACKERS AND IMPORTERS.**—In ac-  
16 cordance with section 7(e)(4), producer-packers and im-  
17 porters shall each have one vote as a handler as well as  
18 a producer or importer (unless exempt under section  
19 7(e)(5)) in all referenda involving orders assessing han-  
20 dlers to the extent the individual producer-packer or im-  
21 porter pays assessments as a handler. The volume of  
22 honey or honey products upon which such qualifying pro-  
23 ducer-packer or importer pays assessments as a handler  
24 shall be credited to such person’s vote as a handler pursu-  
25 ant to this subsection (in addition to any volume upon

1 which they pay an assessment as a producer or importer  
2 that is credited to their vote as a producer or importer).

3 “(d) PERIODIC REFERENDA.—Except as provided in  
4 subsections (e)(3) and (g)(7), on the date that is 5 years  
5 after the date on which the Secretary issues an order au-  
6 thorizing the collection of assessments on honey or honey  
7 products under this Act, and every 5 years thereafter, the  
8 Secretary shall conduct a referendum to determine if the  
9 persons subject to assessment under the order approve the  
10 termination or suspension of the order.

11 “(e) REFERENDA ON REQUEST.—

12 “(1) IN GENERAL.—On the request of the  
13 Honey Board or the petition of at least 10 percent  
14 of the total number of persons subject to assessment  
15 under the order, the Secretary shall conduct a ref-  
16 erendum to determine if the persons subject to as-  
17 sessment under the order approve termination or  
18 suspension of the order.

19 “(2) LIMITATION.—Referenda conducted pursu-  
20 ant to paragraph (1) may not be held more than  
21 once every 2 years.

22 “(3) EFFECT ON PERIODIC REFERENDA.—If a  
23 referendum is conducted under this subsection and  
24 the Secretary determines that termination or sus-  
25 pension of the order is not approved by the requisite

1 number of persons, any referendum otherwise re-  
2 quired to be conducted under subsection (d) shall  
3 not be held prior to the date that is 5 years after  
4 the date of the referendum conducted under this  
5 subsection.

6 “(f) TIMING AND REQUIREMENTS FOR TERMINATION  
7 OR SUSPENSION.—The Secretary shall terminate or sus-  
8 pend an order at the end of the marketing year during  
9 which a referendum is conducted under subsection (d) or  
10 (e) if the Secretary determines that the termination or  
11 suspension is approved—

12 “(1) by a majority of the persons voting in the  
13 referendum; and

14 “(2) such majority represents more than 50  
15 percent of the volume of honey and honey products  
16 produced, imported, and, if assessed under the  
17 order, handled during the representative period by  
18 those voting in the referendum.

19 “(g) IMPLEMENTATION OF HONEY RESEARCH, PRO-  
20 MOTION, AND CONSUMER INFORMATION IMPROVEMENT  
21 ACT OF 1997.—

22 “(1) IN GENERAL.—To implement the amend-  
23 ments made by the Honey Research, Promotion, and  
24 Consumer Information Improvement Act of 1997,  
25 the Secretary shall issue an amended order under

1 section 4 that reflects the amendments made by that  
2 Act.

3 “(2) PROPOSAL OF AMENDED ORDER.—Not  
4 later than 90 days after the date of the enactment  
5 of this subsection, the Secretary shall publish a pro-  
6 posed order under section 4 that reflects the amend-  
7 ments made by that Act. The Secretary shall provide  
8 notice and an opportunity for public comment on the  
9 proposed order pursuant to section 5.

10 “(3) ISSUANCE OF AMENDED ORDER.—Not  
11 later than 240 days after publication of the proposed  
12 order, the Secretary shall issue an order pursuant to  
13 section 6, taking into consideration the comments  
14 received and including in the order such provisions  
15 as are necessary to ensure that the order conforms  
16 with the amendments made by that Act.

17 “(4) REFERENDUM ON AMENDED ORDER.—

18 “(A) IN GENERAL.—On issuance of an  
19 order reflecting the amendments made by that  
20 Act, the Secretary shall conduct a referendum  
21 under this subsection for the sole purpose of de-  
22 termining whether the order as amended shall  
23 become effective. No individual provision of the  
24 amended order shall be subject to a separate  
25 vote under the referendum.

1           “(B) ELIGIBLE VOTERS.—The Secretary  
2 shall conduct the referendum among persons  
3 who have been producers, producer-packers, im-  
4 porters, or handlers during a representative pe-  
5 riod as determined by the Secretary.

6           “(C) DETERMINING VOLUME.—Producer-  
7 packers, importers, and handlers shall be al-  
8 lowed to vote as if the amended order had been  
9 in place during the representative period deter-  
10 mined by the Secretary and they had paid the  
11 increased assessments provided by the amended  
12 order. The votes and the volume attributed  
13 thereto of producer-packers and importers shall  
14 be determined pursuant to subsection (c). The  
15 volume of honey and honey products attributed  
16 to the vote of a handler shall be that handled  
17 in the representative period upon which the  
18 handler would have paid assessments had the  
19 amended order been in effect.

20           “(D) EFFECTIVENESS OF ORDER.—The  
21 amended order shall become effective only if the  
22 Secretary determines that the amended order is  
23 effective in accordance with section 12(b).

24           “(5) CONTINUATION OF EXISTING ORDER IF  
25 AMENDED ORDER IS REJECTED.—If adoption of the

1 amended order is not approved, the order issued  
2 under section 4 in effect on the date of enactment  
3 of the Honey Research, Promotion, and Consumer  
4 Information Improvement Act of 1997 shall continue  
5 in full force and effect and the Secretary is author-  
6 ized to amend the order to ensure its conformity  
7 with this Act.

8 “(6) EFFECT OF REJECTION ON SUBSEQUENT  
9 ORDERS.—If adoption of the amended order is not  
10 approved in the referendum provided for in para-  
11 graph (4) above, nothing in this subsection shall be  
12 construed to prevent the issuance of an amended  
13 order implementing some or all of the provisions of  
14 the Honey Research, Promotion, and Consumer In-  
15 formation Improvement Act of 1997 or making  
16 other changes in an existing order through adminis-  
17 trative procedures under sections 5 and 6, provided,  
18 that amendments implementing provisions which are  
19 subject to a referendum must be approved pursuant  
20 to section 12(b) prior to becoming effective.

21 “(7) EFFECT ON PERIODIC REFERENDA.—If  
22 the amended order becomes effective, any referen-  
23 dum otherwise required to be conducted under sub-  
24 section (d) shall not be held prior to 5 years after

1 the date of the referendum conducted under this sec-  
2 tion.”.

○