

AGRICULTURAL MARKETING AND BARGAINING ACT (EXCERPT)
Act 344 of 1972

290.705 Enforcement of orders; temporary relief or restraining orders; jurisdiction; objections; findings; additional evidence; review; stay.

Sec. 5. (1) The department may petition the court of appeals for the enforcement of its orders and for appropriate temporary relief or restraining orders and shall file in the court the record in the proceedings. Upon the filing of the petition, the court shall cause notice to be served upon the person complained of, and thereupon shall have jurisdiction of the proceeding and of the question to be determined, and may grant temporary relief or restraining order as it considers just and proper and make and enter a decree enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part the order of the department. An objection that has not been urged before the department or a hearing officer shall not be considered by the court, unless the failure or neglect to urge the objection is excused because of extraordinary circumstances. The findings of the department with respect to questions of fact are conclusive if supported by substantial evidence on the record considered as a whole. If either party applies to the court for leave to adduce additional evidence and shows to the satisfaction of the court that the additional evidence is material and that there were reasonable grounds for the failure to adduce the evidence in the hearing before the department, the court may order additional evidence to be taken before the department or hearing officer and to be made a part of the record. The department may modify its findings as to the facts, or make new findings, by reason of additional evidence so taken and filed, and it shall file the modified or new findings, which findings with respect to questions of fact if supported by substantial evidence on the record considered as a whole shall be conclusive, and shall file its recommendations, if any, for the modification or setting aside of its original order. Upon the filing of the record with the court, the jurisdiction of the court shall be exclusive and its judgment and decree shall be final, except that it shall be subject to review in accordance with established procedures for appeal.

(2) Any person aggrieved by a final order of the department granting or denying in whole or in part the relief sought may obtain a review of an order in the court of appeals, by filing in the court a written petition requesting that the order of the department be modified or set aside. A copy of the petition shall be transmitted by the clerk of the court to the department, and the aggrieved party shall file in the court the record in the proceeding certified by the department. Upon the filing of the petition, the court shall proceed in the same manner as in the case of an application by the department under this section and shall have the same jurisdiction to grant temporary relief or a restraining order as it considers just and proper, and in like manner to make and enter a decree enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part the order of the department. The findings of the department with respect to questions of fact shall be conclusive if supported by substantial evidence on the record as a whole.

(3) The commencement of proceedings under this section shall not stay enforcement of the department's decision, but the department or the reviewing court may order a stay upon such terms as the court considers proper.

History: 1972, Act 344, Eff. Mar. 30, 1973;—Am. 2012, Act 119, Imd. Eff. May 2, 2012.