

**STATE OF CALIFORNIA**  
**DEPARTMENT OF FOOD AND AGRICULTURE**  
**MARKETING BRANCH**



**CALIFORNIA DATE COMMISSION LAW**

Chapter 19, Division 22 of the  
California Food and Agricultural Code

January 2011

**California Date Commission Law**  
**Chapter 19, Division 22 of the**  
**California Food and Agricultural Code**

**Table of Contents**

<b>Article 1. Declaration and General Provisions.....</b>	<b>1</b>
<b>Article 2. Definitions.....</b>	<b>3</b>
<b>Article 3. The California Date Commission .....</b>	<b>5</b>
<b>Article 4. Powers and Duties of the Commission .....</b>	<b>9</b>
<b>Article 5. Implementation and Voting Procedures .....</b>	<b>12</b>
<b>Article 6. Assessments and Records .....</b>	<b>14</b>
<b>Article 7. Actions and Penalties.....</b>	<b>16</b>
<b>Article 8. Continuation or Suspension and Termination .....</b>	<b>18</b>

## CALIFORNIA DATE COMMISSION LAW

### Article 1. Declaration and General Provisions

**77701.** The inability of the date industry to maintain or expand present markets for dates may result in unnecessary economic waste.

**77702.** The production and marketing of dates constitutes an important industry that provides substantial and necessary revenues for the state and employment for its citizens.

**77703.** The maintenance of the date industry in California is necessary to assure the public of a continuous supply of this vital product and the maintenance of needed levels of income for those engaged in the marketing of dates.

**77704.** Opportunity exists for continued growth and expansion of the industry by creating new markets in major portions of this country and abroad. The success of the expansion program is uniquely dependent upon effective advertising, promotion, and research since the creation of new markets is essentially a matter of educating and informing people of the use, nutritional value, and availability of the commodity. The expansion of the date industry also provides an important source of jobs for many people in this state, and serves to ensure the preservation of an agrarian society.

**77705.** The successes that the date industry has enjoyed have come in part through a commitment to industry funded research that has led to significant improvements in the quality and variety of the dates available to consumers. It has also led to dates being a better consumer value. The establishment of the commission will continue and enhance this research effort and move the date industry toward its potential, resulting in increased consumer value and enhanced grower returns.

**77706.** The production and marketing of dates in this state is hereby declared to be affected with the public interest. This chapter is enacted in the exercise of the police power of this state for the purposes of protecting the health, peace, safety, and general welfare of the people of this state.

**77707.** It is hereby declared as a matter of legislative determination that commission members and alternates are intended to represent and further the interest of a particular industry concerned and that this representation and furtherance is intended to serve the public interest. Accordingly, the Legislature finds that with respect to persons who are elected or appointed to the commission, the particular industry concerned is tantamount to, and constitutes the public generally within the meaning of Section 87103 of the Government Code.

**77708.** This chapter shall be liberally construed. If any provision of this chapter or application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of the chapter that can be given effect without the invalid provision or application, and to this end, the provisions of this chapter are severable.

**77709.** A commission form of administration created by this chapter is uniquely situated to provide those engaged in the marketing of dates the opportunity to avail themselves of the benefits of collective action in the broad fields of development, maintenance, and expansion of markets; advertising and promotion; and research necessary to achieve the purposes stated herein.

**77710.** No action taken by the commission, or by any individual in accordance with this chapter or with the rules and regulations adopted under this chapter, is a violation of the so-called Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), the Unfair Practices Act (Chapter 4 (commencing with Section 17000) of Part 2 of Division 7 of the Business and Professions Code), or any statutory or common law against monopolies or combinations in restraint of trade.

## Article 2. Definitions

**77721.** Unless the context otherwise requires, the definitions in this article govern the construction of this chapter.

**77722.** "Books and records" means books, records, contracts, documents, memoranda, papers, correspondence, or other written data pertaining to matters relating to the activities subject to this chapter.

**77723.** "Commission" means the California Date Commission.

**77724.** "Commissioner" means any member of the commission.

**77725.** "Date" means any variety of date produced in California, whether handled in whole or processed form.

**77726.** "Department" means the Department of Food and Agriculture.

**77727.** "Ex officio member" means a nonvoting member of the commission.

**77727.5.** "Handle" means to engage in the business of a handler.

**77728.** "Handler" means any person engaged in processing and marketing dates that the person has produced, purchased, or acquired from a producer, or is marketing on behalf of a producer, whether as owner, agent, employee, broker, processor, or otherwise. "Handler" also includes a producer who sells, consigns, or otherwise transfers dates to a handler who is not subject to this chapter.

**77729.** "Market" or "marketing" means to sell, consign, or otherwise distribute dates into commercial channels of trade resulting in the sale of dates. Dates shall also be considered "marketed" when inspected and certified by any third party.

**77730.** "Marketing research" means any research relating to the sale of dates.

**77731.** "Marketing year" or "marketing season" means the period from October 1 of any year to September 30, inclusive, of the following year. The marketing year may be changed by a vote of 2/3 of the membership of the commission.

**77732.** "Process" and "processing" are synonymous and mean the operations of receiving, cleaning, grading, freezing, drying, preserving, chopping, mashing, pitting, slicing, concentrating, macerating, extruding, or otherwise preparing dates for market in any form.

**77733.** "Producer" means any person in this state who grows dates of any variety, and who, upon request, provides proof of commodity sale.

**77734.** "Product research" means any research related to the development of new uses for dates.

**77735.** "Production research" means any research related to the production, harvest, or post-harvest handling of dates.

**77736.** "Secretary" means the Secretary of Food and Agriculture.

### Article 3. The California Date Commission

**77751. (a)** There is in state government the California Date Commission. Except as otherwise provided in Section 77752.5, the commission is composed of six date handlers from District 1 and may include one public member.

**(b)** The public member shall be appointed to the commission by the secretary from nominees recommended by the other members of the commission.

**(c)** The secretary, and other appropriate individuals, as determined by the commission, shall be ex officio members of the commission.

**77752.** District 1 consists of all of Riverside County. Additional districts may be added pursuant to Section 77752.5, and shall be numbered consecutively beginning with "District 2," as each new district becomes subject to this chapter.

**77752.5. (a)** Handlers of dates who are not subject to this chapter on the date it becomes operative pursuant to Article 5 (commencing with Section 77811) may petition the commission to establish an additional district or districts composed of one or more counties that are not in District 1. If the petition is approved by a 2/3 vote of the membership of the commission, the secretary shall conduct an implementation vote of the handlers from those districts in accordance with Article 5 (commencing with Section 77811).

**(b)** If the secretary certifies a favorable vote, all handlers from those districts shall be subject to this chapter. Thereafter, in accordance with procedures established by the commission, the number of handlers serving on the commission from each district shall be modified, if necessary, to ensure proper representation of each district. The commission shall not be composed of more than nine handlers.

**77753. (a)** The secretary may require the commission to correct or cease any activity or function that is determined by the secretary not to be in the public interest or that is in violation of this chapter.

**(b)** If the commission refuses or fails to cease these activities or functions or to make corrections required by the secretary, the secretary, upon written notice, may suspend all or a portion of the activities or functions of the commission until the time that the cessation or correction of the activities or functions, as required by the secretary, has been accomplished by the commission.

**(c)** Any action of the commission in violation of the written notice is without legal force or effect. The secretary, to the extent feasible, shall issue the written notice prior to the commission entering into any contractual relationship affecting the existing or proposed activities or functions that are the subject of the written notice.

*Section 77753 continued on next page.*

(d) The secretary shall include in the written notice to the commission the specific acts that the secretary determines are not in the public interest or are in violation of this chapter, the secretary's reasons for requiring a cessation or correction of specific existing or proposed activities or functions, and the secretary's recommendations with respect to any action that will make the activities or functions acceptable.

77754. The commission or the secretary may bring an action for judicial relief from the secretary's written notice, or from noncompliance by the commission with the written notice, as the case may be, in a court of competent jurisdiction, which may issue a temporary restraining order, permanent injunction, or other appropriate relief.

77755. When the secretary is required to concur in a decision of the commission, the secretary shall concur, refuse to concur, or request additional information from the commission within 15 working days from the date the secretary receives notification of the decision.

77756. The commission shall reimburse the secretary for all expenditures incurred by the secretary in carrying out his or her duties and responsibilities pursuant to this chapter. However, a court, if it finds that the secretary acted arbitrarily or capriciously in restricting the activities or functions of the commission, may relieve the commission of the responsibility for payment of the secretary's legal costs with regard to that action.

77757. An alternate member to each member of the commission, except the ex officio members, shall be elected or appointed in the same manner and for the same term as the member. An alternate member, in the absence of the member for whom he or she is an alternate, shall serve in place of the member and shall exercise all of the rights, privileges, and powers of the member when serving on the commission. In addition, if a member and his or her alternate are absent, any other alternate from the same district may serve in place of the member, and shall exercise all of the rights, privileges, and powers of the member when serving on the commission. If the status of a member changes, thereby making the member ineligible to serve, or in the event of the death, removal, resignation, or disqualification of a member, the alternate member shall act as a member of the commission until a qualified successor is elected or appointed.

77758. Any vacancy on the commission occurring by the failure of any person elected to or serving on the commission as a member or alternate member to continue in his or her position due to a change in his or her status, thereby making the person ineligible to serve, or due to death, removal, resignation, or disqualification, shall be filled for the unexpired portion of the term by a majority vote of the remaining members of the commission. The appointee shall meet all of the qualifications set forth in this article as required for the member or alternate whose office he or she is to occupy.



**77759. (a)** Any member and alternate on the commission shall be an individual, partner, or employee representing a handler who has a financial interest in handling dates for market. The qualifications of a member and alternate shall be maintained during the entire term of office.

**(b)** Not more than one member and one alternate shall be a person employed by, or connected in a proprietary capacity with, the same corporation, firm, partnership, association, or business organization.

**77760.** The public member and his or her alternate member on the commission shall have all of the powers, rights, and privileges of any other member or alternate member, respectively, on the commission. The public member and his or her alternate member shall not have any financial interest in the date industry.

**77761.** The term of office of all members and alternate members of the commission, except any ex officio member, shall be three years from the date of their election and until qualified successors are elected.

**77762.** The commission is hereby declared and created a corporate body. It may sue and be sued, enter into contracts, adopt a seal, and has all of the powers of a corporation. Copies of its proceedings, records, and acts, when authenticated, shall be prima facie evidence of the truth of all statements therein.

**77763.** A quorum of the commission is a majority of the voting members of the commission. Except as otherwise provided in subdivision (b) of Section 77841 and Sections 77731 and 77883, the vote of the majority of the members present at a meeting at which there is a quorum constitutes the act of the commission.

**77764.** The secretary or his or her representative shall be notified and may attend each meeting of the commission and any committee meeting of the commission. However, the secretary or his or her representative is not entitled to attend an executive session of the commission or a committee of the commission called for the purpose of discussing potential or actual litigation against the department.

**77765.** No member of the commission, or member of a committee established by the commission who is a nonmember of the commission, shall receive any compensation. Each member of the commission or each alternate member serving in place of a member, except ex officio members, and each member of a committee established by the commission who is a nonmember of the commission, may receive per diem of not more than one hundred dollars (\$100) per day, as established by the commission, and may also receive necessary traveling expenses and meal allowances as approved by the commission. If per diem is paid, it shall be paid to members for each day spent in actual attendance at, or in traveling to and from, meetings of the commission or committees of the commission, or on special assignment for the commission, as approved by the commission.

**77766.** All funds received by any person from the assessments levied under the authority of this chapter or otherwise received by the commission shall be deposited in banks which the commission may designate and shall be disbursed by order of the commission through an agent or agents designated by the commission for that purpose. The agent or agents shall be bonded by a fidelity bond, executed by a surety company authorized to transact business in this state, in favor of the commission, in an amount of not less than twenty-five thousand dollars (\$25,000).

**77767.** The state is not liable for the acts of the commission or its contracts. Payments of all claims arising by reason of the administration of this chapter or acts of the commission are limited to the funds collected by the commission. No member, alternate member, employee, or agent of the commission is personally liable for the contracts of the commission and no such person is responsible individually in any way to any handler or any other person for errors in judgment, mistakes, or other acts, either of commission or omission, as a principal, agent, or employee, except for his or her own individual acts of dishonesty or crime. No member, alternate member, employee, or agent of the commission, is responsible individually for any act or omission of any other member, alternate member, employee, or agent of the commission. Liability is several and not joint, and no member, alternate member, employee, or agent of the commission is liable for the default of any other member, alternate member, employee, or agent of the commission.

#### **Article 4. Powers and Duties of the Commission**

**77781.** The powers and duties of the commission include, but are not limited to, all of those specified in this article.

**77782.** The commission may adopt, and from time to time alter, rescind, modify, and amend all necessary and proper bylaws, rules, regulations, and orders in accordance with commission procedures for purposes of carrying out this chapter, including rules for appeals from any bylaw, rule, regulation, operating procedure, or order of the commission.

**77783.** The commission may administer and enforce this chapter and perform all acts and exercise all powers incidental to, or in connection with, or deemed reasonably necessary for, the proper or advisable implementation of the purposes of this chapter. The commission may, in this connection, enter into contracts for services with public and private agencies which the commission determines necessary to carry out this chapter.

**77784.** The commission may appoint its own officers, including a chairperson, one or more vice chairpersons, and other officers it deems necessary. The officers have the powers and duties delegated to them by the commission.

**77785.** Notwithstanding any other provision of law, the commission may employ a person to serve at the pleasure of the commission as president and chief executive officer of the commission, and other personnel, including private legal counsel, necessary to carry out this chapter. The commission may retain a management firm or the staff from any board, commission, or agency of the state or federal government to perform the functions prescribed by this section under the control of the commission. If any person employed by the commission engages in any conduct that the secretary determines is not in the public interest or that is in violation of this chapter, the secretary shall notify the commission of the conduct and request that corrective and, if appropriate, disciplinary action be taken by the commission. If the commission fails or refuses to correct the situation or to take disciplinary action satisfactory to the secretary, the secretary may suspend or discharge the person.

**77786.** The commission may fix the compensation for all employees of the commission.

**77787.** The commission may appoint committees composed of both members and nonmembers of the commission to advise the commission in carrying out this chapter.

**77788.** The commission may establish offices, incur expenses, enter into contracts and agreements, create liabilities, and borrow funds in advance of receipt of assessments that may be necessary, in the opinion of the commission, for the proper administration and enforcement of this chapter and the performance of its duties.

**77789.** The commission shall keep accurate books, records, and accounts of all its dealings that shall be subject to an annual audit by an auditing firm selected by the commission with the concurrence of the secretary. A summary of the audit shall be reported to all handlers and copies of the summary shall also be submitted to the department. In addition, the secretary, as he or she determines necessary, may conduct or cause to be conducted a fiscal and compliance audit of the commission.

**77790.** The commission may make, in its name, contracts to receive or render services in formulating and conducting plans and programs and any other contracts or agreements that the commission deems necessary for carrying out this chapter.

**77791.** The commission may conduct, and contract with others to conduct, marketing research, product research, production research, and any other research related to the purposes of this chapter, including the study, analysis, dissemination, and accumulation of information obtained from research or elsewhere regarding this chapter. The results of any research conducted by or on behalf of the commission may be used by the commission in any way it deems appropriate, and notwithstanding any other provision of law, may be maintained in confidence by the commission and not disseminated to any person not subject to this chapter.

**77792.** The commission may present facts to, and negotiate with, state, federal, and foreign agencies on matters that affect the date industry.

**77793.** The commission may promote the sale of dates by advertising and other promotional means, including cost-sharing advertising, for the purpose of maintaining and expanding present markets and creating new and larger intrastate, interstate, and foreign markets for dates, and to educate and instruct the public with respect to the uses, healthful properties, and nutritional value of dates.

**77794.** The commission may educate and instruct the wholesale and retail trade with respect to proper methods of handling and selling dates, and conduct market surveys and analyses.

**77795.** The commission may accept contributions of, or match private, state, or federal funds and employ or make contributions of funds to other persons or state or federal agencies for purposes of promoting and maintaining the date industry.

**77796.** The commission may publish and distribute, without charge, bulletins and other communications for the dissemination of information to handlers.

**77797.** The commission shall establish an assessment rate to defray the operating costs of the commission to carry out the purposes of this chapter.

**77798.** The commission shall adopt an annual budget according to accepted accounting practices. The secretary shall concur in the adoption of the budget prior to the disbursement of funds, except for disbursements necessary to pay the compensation of employees of the commission.

**77799.** The commission shall annually prepare and submit to the secretary, for his or her concurrence, a statement of contemplated activities authorized pursuant to this chapter.

**77800.** The commission may investigate and prosecute civil violations of this chapter and file complaints with appropriate law enforcement agencies or officers for suspected criminal violations of this chapter.

**77801.** The commission may administer, if requested by an advisory board, a board of directors, or any other authorized agent of a governmental program, any program related to the date industry.

## **Article 5. Implementation and Voting Procedures**

**77811. (a)** Within 15 days of the effective date of this section, the secretary shall establish a list of handlers eligible to vote on implementation of this chapter. In establishing the list, the secretary may require that producers, handlers, manufacturers, county agricultural commissioners, and others submit the names and mailing addresses of all known handlers. The secretary may also require that the information provided include the quantity of dates handled by handlers or, in the alternative, may establish procedures for receiving the information at the time of the vote specified in Section 77812. The request for the information shall be in writing, and the requested information shall be filed within 10 days following receipt of the request.

**(b)** Any handler whose name does not appear on the list may have his or her name placed on the list by filing with the secretary a signed statement identifying himself or herself as a handler. The absence of a handler's name from the list does not exempt the handler from paying assessments and does not invalidate any industry votes conducted pursuant to this article.

**(c)** Proponents and opponents of the commission may contact handlers on the lists in a form and manner prescribed by the secretary if all expenses associated with those contacts are paid in advance.

**77812.** This chapter, except as necessary to conduct an implementation referendum vote, shall not become operative until the secretary finds, in a referendum vote conducted by the secretary, that at least 40 percent of the total number of handlers from the list established by the secretary pursuant to this article have participated and that either of the following has occurred:

**(a)** Sixty-five percent or more of the handlers who voted in the referendum voted in favor of this chapter, and the handlers so voting handled a majority of the total quantity of dates in the preceding season by all of the handlers who voted in the referendum.

**(b)** A majority of the handlers who voted in the referendum voted in favor of this chapter, and the handlers so voting handled 65 percent or more of the total quantity of dates in the preceding marketing year by all of the handlers who voted in the referendum.

**77813. (a)** The secretary shall establish a period to conduct the referendum that shall not be less than 10 days or more than 60 days in duration, and may prescribe additional procedures that may be necessary to conduct the referendum.

**(b)** If the initial period established is less than 60 days, the secretary may extend the period to not more than 60 days.

**77814.** The failure of a handler to receive a ballot shall not invalidate a referendum.

**77815.** If the secretary finds that a favorable vote has been given as provided in this article, the secretary shall certify and declare this chapter operative and give notice of the favorable vote to all handlers whose names and addresses are on file with the secretary.

**77816.** If the secretary finds that a favorable vote has not been given as provided in this article, the secretary shall certify and declare this chapter inoperative. The secretary may conduct another implementation referendum vote one or more years after the previous vote was taken.

**77817.** Upon certification of the commission, the eligible handler members and alternates of any body operating pursuant to an existing federal marketing order for dates comprise the initial membership of the commission. Thereafter, persons to be elected to the commission shall be selected pursuant to nomination and elections procedures that are established by the commission with the concurrence of the secretary. For purposes of elections, the vote of each handler shall be weighted by the pounds of dates handled during the immediately preceding marketing year.

**77818. (a)** Prior to the secretary holding the referendum pursuant to this article, the proponents of the commission shall deposit with the secretary any amounts that the secretary determines necessary to defray the expenses of preparing the necessary lists and information and conducting the referendum.

**(b)** Any funds not used in carrying out this article shall be returned to the proponents of the commission who deposited the funds with the secretary.

**(c)** Upon the establishment of the commission, the commission may reimburse the proponents of the commission for any funds deposited with the secretary that were used in carrying out this article, and for any legal expenses and costs incurred in establishing the commission.

## Article 6. Assessments and Records

**77841. (a)** The commission, prior to the beginning of each marketing year, or as soon thereafter as possible, shall establish the assessment for the following marketing season, which shall not exceed five dollars (\$5) per hundredweight for dates handled.

**(b)** An assessment greater than the amount provided in subdivision (a) may not be imposed unless and until, a greater assessment amount is approved by a 2/3 vote of the membership of the commission.

**77842.** This chapter does not apply to any person who handles less than 25,000 pounds of dates per year. However, any such person shall file an affidavit with the commission establishing that he or she is exempt from this chapter. The commission shall determine whether to approve the affidavit. Additional exemptions from this chapter may be approved by a majority vote of the commission.

**77842.5. (a)** Every person who handles dates in any quantity shall keep a complete and accurate record of all dates handled. The records shall be in simple form and contain any information that the commission prescribes.

**(b)** The records shall be retained by the handler for a period of three years and shall be offered and submitted for inspection at any reasonable time upon written demand of the commission or its duly authorized agent.

**77843. (a)** All proprietary information obtained by the commission or the secretary from handlers is confidential and shall not be disclosed except when required by a court order after a hearing in a judicial proceeding involving this chapter.

**(b)** Information on volume shipments, crop value, and any other related information that is required for reports to governmental agencies, financial reports to the commission, aggregate sales and inventory information, and any other information that the commission requires that gives only totals, but excludes individual handler information, may be disclosed by the commission.

**77844.** The assessments shall be levied upon and paid by the handler pursuant to this chapter.

**77845.** Any assessment that is levied pursuant to this chapter is a personal debt of every handler so assessed.



**77846.** Any handler who fails to file a return or pay any assessment within the time required by the commission shall pay the commission a penalty of 10 percent of the amount of the assessment determined to be due and, in addition, pay 1 1/2 percent interest per month on the unpaid balance.

**77847.** In addition to any other penalty imposed, the commission may require any person who fails to pay assessments or related charges pursuant to this article to furnish and maintain a surety bond in a form and amount and for a period of time specified by the commission as assurance that all payments to the commission shall be made when due. However, a bond shall not be required until the commission has made a reasonable attempt to obtain compliance from the handler.

## Article 7. Actions and Penalties

**77861.** It is unlawful for any person to do any of the following:

- (a) Fail to render or furnish a report, statement, or record required by the commission.
- (b) Willfully render or furnish a false report, statement, or record required by the commission.
- (c) Secrete, destroy, or alter records required to be kept under this chapter.

**77862.** The commission shall adopt procedures to grant individuals aggrieved by its actions or determinations an informal hearing before the commission or before a committee of the commission designated for this purpose. Appeals from decisions of the commission may be made to the secretary. After exhaustion of all administrative remedies, the determination of the secretary is subject to judicial review upon petition filed with the appropriate superior court.

**77863. (a)** The commission may commence civil actions and utilize all remedies provided in law or equity for the collection of assessments and civil penalties and for obtaining injunctive relief or specific performance regarding this chapter and the regulations adopted pursuant to this chapter. A court shall issue to the commission any requested writ of attachment or injunctive relief upon a prima facie showing by verified complaint that a named defendant has violated this chapter or any regulation of the commission, including, but not limited to, the nonpayment of assessments. No bond shall be required to be posted by the commission as a condition for the issuance of any writ of attachment or injunctive relief.

**(b)** A writ of attachment shall be issued pursuant to Chapter 4 (commencing with Section 485.010) of Title 6.5 of Part 2 of the Code of Civil Procedure, except that the showing specified in Section 485.010 of the Code of Civil Procedure is not required. Injunctive relief shall be issued pursuant to Chapter 3 (commencing with Section 525) of Title 7 of that part, except that the showing of irreparable harm or inadequate remedy at law specified in Sections 526 and 527 is not required.

**(c)** Upon entry of any final judgment on behalf of the commission against any defendant, the court shall enjoin the defendant from conducting any type of business involving dates subject to this chapter, until there is full compliance and satisfaction of the judgment. Upon a favorable judgment for the commission, it is entitled to receive reimbursement for any reasonable attorney's fees and other actual related costs. Venue for these actions may be established at the domicile or place of business of the defendant or in the county of the principal office of the commission. The commission may be sued only in the county of its principal office.

**77864.** Any action by the commission for any violation of this chapter shall be commenced within two years from the date of discovery of the alleged violation. Any action against the commission by any person shall be commenced within two years from the date of the act of which the person complains.

**77865.** The suspension or termination of this chapter does not affect or waive any right, duty, obligation, or liability that has arisen or that may thereafter arise in connection with this chapter, release or extinguish any violation of this chapter, or affect or impair any right or remedies of the commission with respect to any violation.

## Article 8. Continuation or Suspension and Termination

**77881. (a)** Every six years, beginning in the 2001-02 marketing year, the secretary shall hold a hearing to determine whether the operation of this chapter should be continued. If the secretary finds after the hearing that a substantial question exists among handlers assessed under this chapter regarding whether the operation of this chapter should be continued, the secretary shall submit the chapter for approval utilizing the voting procedures provided in Sections 77812 to 77814, inclusive.

**(b)** If the secretary finds that a favorable vote has been given, the secretary shall so certify and this chapter shall remain in operation. If the secretary finds that a favorable vote has not been given, the secretary shall so certify and declare the operation of this chapter and the commission suspended upon expiration of the then current marketing year. Thereupon, the operations of the commission shall be concluded and funds distributed in the manner provided in Section 77885.

**77882.** If a referendum is conducted as the result of a petition pursuant to Section 77883, the hearing pursuant to Section 77881 shall be conducted every sixth year following the industry petitioned referendum.

**77883. (a)** Upon a finding by a 2/3 vote of the membership of the commission that the operation of this chapter has not tended to effectuate its declared purposes, the commission may recommend to the secretary that the operation of this chapter be suspended. However, any suspension shall not become effective until the expiration of the current marketing year.

**(b)** The secretary shall, upon receipt of the recommendation, or may, after a public hearing to review a petition filed with the secretary requesting a suspension signed by not less than 20 percent of the handlers by number who handled not less than 20 percent of the volume in the immediately preceding marketing year, hold a referendum among the handlers to determine if the operations of the commission shall be suspended. However, the secretary shall not hold a referendum as a result of the petition unless the petitioner shows, by a preponderance of evidence, that the operation of this chapter has not tended to effectuate its declared purposes.

*Section 77883 continued on next page.*

(c) The secretary shall establish a referendum period, which shall not be less than 10 days or more than 60 days in duration. The secretary may prescribe additional procedures as may be necessary to conduct the referendum. At the close of the established referendum period, the secretary shall tabulate the ballots filed during the period. The secretary shall suspend the operation of this chapter if the secretary finds that at least 40 percent of the total number of handlers from the list established by the secretary have participated in the referendum and either one of the following has occurred:

(1) Sixty-five percent or more of the handlers who voted in the referendum voted in favor of suspension, and the handlers so voting handled a majority of the total quantity of dates handled in the preceding marketing year by all of the handlers who voted in the referendum.

(2) A majority of the handlers who voted in the referendum voted in favor of suspension, and the handlers so voting handled 65 percent or more of the total quantity of dates handled in the preceding marketing year by all of the handlers who voted in the referendum.

(d) If a referendum is conducted as the result of a petition pursuant to subdivision (b), the costs to conduct the referendum shall be paid by the petitioners.

**77884.** After the effective date of suspension, the operation of the commission shall be concluded and any and all funds remaining held by the commission and not required to defray the expenses of concluding and terminating operations of the commission shall be returned on a pro rata basis to all persons from whom assessments were collected in the immediately preceding marketing year. However, if the commission finds that the amounts so returnable are so small as to make impractical the computation and remitting of the pro rata refund to these persons, any funds remaining after payment of all expenses of winding up and terminating operations shall be withdrawn from the approved depository and paid to the University of California for continued research on dates. If no such program exists, the funds shall be paid into the State Treasury as unclaimed trust funds.

**77885.** Upon suspension of the operation of this chapter, the commission shall mail a copy of the notice of suspension to all handlers whose names and addresses are on file with the commission and to the appropriate policy committees in both the Assembly and Senate.