

103D CONGRESS  
1ST SESSION

# H. R. 2243

To amend the Federal Trade Commission Act to extend the authorization of appropriations in such Act, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 24, 1993

Mr. SWIFT (for himself and Mr. DINGELL) introduced the following bill; which was referred to the Committee on Energy and Commerce

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## A BILL

To amend the Federal Trade Commission Act to extend the authorization of appropriations in such Act, and for other purposes.

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

3 **SECTION 1. SHORT TITLE, REFERENCE.**

4       (a) SHORT TITLE.—This Act may be cited as the  
5       “Federal Trade Commission Act Amendments of 1993”.

6       (b) REFERENCE.—Whenever in this Act an amend-  
7       ment or repeal is expressed in terms of an amendment  
8       to, or repeal of, a section or other provision, the reference  
9       shall be considered to be made to a section or other provi-  
10      sion of the Federal Trade Commission Act.

1 **SEC. 2. EFFECTIVE DATE OF ORDERS.**2 Section 5(g) (15 U.S.C. 45(g)) is amended to read  
3 as follows:4 “(g) An order of the Commission to cease and desist  
5 shall become final as follows:6 “(1) Upon the expiration of the time allowed  
7 for filing a petition under subsection (c) for review  
8 if no such petition has been duly filed within such  
9 time, except that the Commission may after the  
10 order becomes final modify or set it aside to the ex-  
11 tent provided in the last sentence of subsection (b).12 “(2) Except as to any order provision subject to  
13 paragraph (4), upon the 60th day after such order  
14 is served if a petition under subsection (c) for review  
15 has been duly filed, except that any such order may  
16 be stayed, in whole or in part and subject to such  
17 conditions as may be appropriate, by—

18 “(A) the Commission,

19 “(B) an appropriate court of appeals of  
20 the United States if (i) a petition for review of  
21 such order is pending in such court, and (ii) an  
22 application for such a stay was previously sub-  
23 mitted to the Commission and the Commission,  
24 within the 30-day period beginning on the date  
25 the application was received by the Commission,

1       either denied the application or did not grant or  
2       deny the application, or

3               “(C) the Supreme Court if an applicable  
4       petition for a writ of certiorari is pending.

5               “(3) For purposes of subsection (m)(1)(B) and  
6       section 19(a)(2)—

7               “(A) if a petition under subsection (c) for  
8       review of the order of the Commission has been  
9       filed and if the order of the Commission has  
10      been affirmed or the petition for review has  
11      been dismissed by a court of appeals of the  
12      United States and no petition for certiorari has  
13      been duly filed, upon the expiration of the time  
14      allowed for filing a petition to the Supreme  
15      Court for a writ of certiorari,

16               “(B) if a petition under subsection (c) for  
17       review of the order of the Commission has been  
18       filed and if the order of the Commission has  
19       been affirmed or the petition for review has  
20       been dismissed by a court of appeals of the  
21       United States, upon the denial of a petition for  
22       a writ of certiorari, or

23               “(C) if a petition under subsection (c) for  
24       review of the order of the Commission has been  
25       filed, upon the expiration of 30 days from the

1 date of issuance of a mandate of the Supreme  
2 Court directing that the order of the Commis-  
3 sion be affirmed or the petition for review be  
4 dismissed.

5 “(4) In the case of an order provision requiring  
6 a person, partnership, or corporation to divest itself  
7 of stock, other share capital, or assets—

8 “(A) if a petition under subsection (c) for  
9 review of such order of the Commission has  
10 been filed and if the order of the Commission  
11 has been affirmed or the petition for review has  
12 been dismissed by a court of appeals of the  
13 United States and no petition for certiorari has  
14 been duly filed, upon the expiration of the time  
15 allowed for filing a petition to the Supreme  
16 Court for a writ of certiorari,

17 “(B) if a petition under subsection (c) for  
18 review of such order of the Commission has  
19 been filed and if the order of the Commission  
20 has been affirmed or the petition for review has  
21 been dismissed by a court of appeals of the  
22 United States upon the denial of a petition for  
23 a writ of certiorari, or

24 “(C) if a petition under subsection (c) for  
25 review of such order of the Commission has

1           been filed, upon the expiration of 30 days from  
2           the date of issuance of a mandate of the Su-  
3           preme Court directing that the order of the  
4           Commission be affirmed or the petition for re-  
5           view be dismissed.”.

6   **SEC. 3. PROCEEDINGS SUBSEQUENT TO VIOLATIONS OF**  
7           **ORDERS.**

8           (a) CIVIL PENALTIES.—Section 5(m)(1)(B) (15  
9 U.S.C. 45(m)(1)(B)) is amended by inserting “, other  
10 than a consent order,” immediately after “order” the first  
11 time it appears.

12           (b) DETERMINATIONS OF LAW.—Section 5(m)(2) (15  
13 U.S.C. 45(m)(2)) is amended by adding at the end the  
14 following: “Upon request of any party to such an action  
15 against such defendant, the court shall also review the de-  
16 termination of law made by the Commission in the pro-  
17 ceeding under subsection (b) that the act or practice which  
18 was the subject of such proceeding constituted an unfair  
19 or deceptive act or practice in violation of subsection (a).”.

20   **SEC. 4. CIVIL INVESTIGATIVE DEMANDS.**

21           (a) SECTION 20(a).—Section 20(a) (15 U.S.C. 57b-  
22 1(a)) is amended—

23                   (1) in paragraph (2), by striking “unfair or de-  
24                   ceptive acts or practices in or affecting commerce  
25                   (within the meaning of section 5(a)(1))” and insert-

1       ing in lieu thereof “act or practice or method of  
2       competition declared unlawful by a law administered  
3       by the Commission”;

4               (2) in paragraph (3), by striking “unfair or de-  
5       ceptive acts or practices in or affecting commerce  
6       (within the meaning of section 5(a)(1))” and insert-  
7       ing in lieu thereof “acts or practices or methods of  
8       competition declared unlawful by a law administered  
9       by the Commission”; and

10               (3) in paragraph (7), by striking “unfair or de-  
11       ceptive act or practice in or affecting commerce  
12       (within the meaning of section 5(a)(1))” and insert-  
13       ing in lieu thereof “act or practice or method of  
14       competition declared unlawful by a law administered  
15       by the Commission”.

16       (b) SECTION 20(c).—Section 20(c)(1) (15 U.S.C.  
17 57b-1(c)) is amended by striking “unfair or deceptive acts  
18 or practices in or affecting commerce (within the meaning  
19 of section 5(a)(1))” and inserting in lieu thereof “any act  
20 or practice or method of competition declared unlawful by  
21 a law administered by the Commission”.

22       (c) SECTION 20(j).—Section 20(j) (15 U.S.C. 57b-  
23 1(j)) is amended by inserting immediately before the semi-  
24 colon the following: “, any proceeding under section 11(b)

1 of the Clayton Act, or any adjudicative proceeding under  
2 any other provision of law".

3 **SEC. 5. AGRICULTURAL COOPERATIVES.**

4 The Federal Trade Commission Act is amended by  
5 redesignating sections 24 and 25 as sections 25 and 26,  
6 respectively, and by inserting after section 23 the follow-  
7 ing:

8 "SEC. 24. (a) The Commission shall not have any au-  
9 thority to conduct any study, investigation, or prosecution  
10 of any agricultural cooperative for any conduct which, be-  
11 cause of the provisions of the Act entitled 'An Act to au-  
12 thorize association of producers of agricultural products',  
13 approved February 18, 1922 (7 U.S.C. 291 et seq., com-  
14 monly known as the Capper-Volstead Act), is not a viola-  
15 tion of any of the antitrust Acts or this Act.

16 " (b) The Commission shall not have any authority  
17 to conduct any study or investigation of any agricultural  
18 marketing orders.".

19 **SEC. 6. AUTHORIZATION OF APPROPRIATIONS.**

20 Section 25 (15 U.S.C. 57c) (as so redesignated by  
21 section 5) is amended to read as follows:

22 "SEC. 25. To carry out the functions, powers, and  
23 duties of the Commission there are authorized to be appro-  
24 priated \$88,000,000 for fiscal year 1993, \$92,000,000 for  
25 fiscal year 1994, and \$99,000,000 for fiscal year 1995.".

1 **SEC. 7. ACTION OF COMMISSION RESPECTING CERTAIN**2 **PROCEEDINGS.-**

3 (a) IN GENERAL.—The Federal Trade Commission  
4 shall not have any authority to use any funds which are  
5 authorized under section 25 to be appropriated to carry  
6 out the Federal Trade Commission Act (15 U.S.C. 41 et  
7 seq.) for fiscal years 1993, 1994, or 1995 for the purpose  
8 of submitting statements to, appearing before, or interven-  
9 ing in the proceedings of, any Federal or State agency  
10 unless the Commission notifies the Committee on Energy  
11 and Commerce of the House of Representatives and the  
12 Committee on Commerce, Science, and Transportation of  
13 the Senate of such action as soon as possible.

14 (b) NOTICE.—The notice required by subsection (a)  
15 with respect to Federal Trade Commission action shall in-  
16 clude—

17 (1) the name of the agency involved,  
18 (2) the date of such action, and  
19 (3) a concise statement regarding the nature  
20 and purpose of such action.

21 **SEC. 8. EFFECTIVE DATE.**

22 (a) IN GENERAL.—Except as provided in subsections  
23 (b) and (c), the amendments made by this Act and this  
24 Act shall take effect on the date of enactment of this Act.

25 (b) SECTION 2.—

17 (c) SECTION 4.—The amendments made by section  
18 4 shall apply only with respect to compulsory process is-  
19 sued after the date of enactment of this Act.

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