

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.

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

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.—

1 (1) IN GENERAL.—The amendment made by
2 section 2 shall apply only with respect to cease and
3 desist orders issued under section 5 of the Federal
4 Trade Commission Act (15 U.S.C. 45) after the date
5 of enactment of this Act.

6 (2) CONSTRUCTION.—The amendment made by
7 section 2 shall not be construed to affect in any
8 manner a cease and desist order which was issued
9 before the date of enactment of this Act. Such
10 amendment shall not be construed to affect in any
11 manner a cease and desist order issued after the
12 date of enactment of this Act, if such order was is-
13 sued pursuant to remand from a court of appeals or
14 the Supreme Court of an order issued by the Fed-
15 eral Trade Commission before the date of enactment
16 of this Act.

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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