
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1170 Session of
2023

INTRODUCED BY SAPPEY, SANCHEZ, KENYATTA, PASHINSKI, KHAN,
HOWARD, MADDEN, NEILSON AND O'MARA, MAY 18, 2023

REFERRED TO COMMITTEE ON AGRICULTURE AND RURAL AFFAIRS,
MAY 18, 2023

AN ACT

1 Amending the act of April 28, 1937 (P.L.417, No.105), entitled
2 "An act relating to milk and the products thereof; creating a
3 Milk Marketing Board; establishing its jurisdiction, powers
4 and duties; regulating the production, transportation,
5 manufacturing, processing, storage, distribution, delivery
6 and sale of milk and certain products thereof; providing for
7 the licensing of milk dealers and the payment of fees
8 therefor; requiring milk dealers to file bonds to secure
9 payment for milk to producers and certain milk dealers;
10 authorizing the holding of hearings and the issuance of
11 subpoenas by the board; conferring jurisdiction upon courts
12 to punish contempts and to prohibit violations of this act
13 and of rules, regulations and orders of the board;
14 authorizing the board to adopt rules, regulations and orders,
15 and to enter into interstate and Federal compacts; requiring
16 persons who weigh, measure, sample or test milk to procure
17 permits or certificates, to take examinations, to pay fees
18 therefor, to furnish certain notices, records and statements,
19 and to use certain methods of weighing, measuring, sampling
20 and testing; authorizing the board to examine the business,
21 papers and premises of milk dealers and producers, requiring
22 the keeping of records and the filing of reports by milk
23 dealers, and permitting, with limitations, the use of
24 information obtained thereby; authorizing the board to fix
25 prices for milk and certain milk products subject to the
26 approval of the Governor, and conferring certain powers upon
27 the Governor with respect thereto; providing for appeals to
28 the courts from decisions of the board, and for the burden of
29 proof upon such appeals; prescribing penalties, fines and
30 imprisonment for violations of this act and rules,
31 regulations and orders of the board; defining perjury;
32 defining remedies; repealing legislation supplied and
33 superseded by this act, and saving rights, duties and

1 proceedings thereunder; and making appropriations," further
2 providing for title of act; in purpose, short title and
3 definitions, further providing for definitions and
4 construction; in organization of the board, further providing
5 for appointment and terms of members and quorum; in licenses
6 of milk dealers, further providing for grounds for refusal,
7 suspension or revocation; in moneys and expenses of board,
8 further providing for expenses and for payment; and, in
9 saving provisions, repealing provisions relating to Joint
10 Study Committee.

11 The General Assembly of the Commonwealth of Pennsylvania
12 hereby enacts as follows:

13 Section 1. The title of the act of April 28, 1937 (P.L.417,
14 No.105), known as the Milk Marketing Law, is amended to read:

15 AN ACT

16 Relating to milk and the products thereof; creating a
17 Pennsylvania Milk [Marketing] Board; establishing its
18 jurisdiction, powers and duties; regulating the production,
19 transportation, manufacturing, processing, storage,
20 distribution, delivery and sale of milk and certain products
21 thereof; providing for the licensing of milk dealers and the
22 payment of fees therefor; requiring milk dealers to file
23 bonds to secure payment for milk to producers and certain
24 milk dealers; authorizing the holding of hearings and the
25 issuance of subpoenas by the board; conferring jurisdiction
26 upon courts to punish contempts and to prohibit violations of
27 this act and of rules, regulations and orders of the board;
28 authorizing the board to adopt rules, regulations and orders,
29 and to enter into interstate and Federal compacts; requiring
30 persons who weigh, measure, sample or test milk to procure
31 permits or certificates, to take examinations, to pay fees
32 therefor, to furnish certain notices, records and statements,
33 and to use certain methods of weighing, measuring, sampling
34 and testing; authorizing the board to examine the business,
35 papers and premises of milk dealers and producers, requiring

1 the keeping of records and the filing of reports by milk
2 dealers, and permitting, with limitations, the use of
3 information obtained thereby; authorizing the board to fix
4 prices for milk and certain milk products subject to the
5 approval of the Governor, and conferring certain powers upon
6 the Governor with respect thereto; providing for appeals to
7 the courts from decisions of the board, and for the burden of
8 proof upon such appeals; prescribing penalties, fines and
9 imprisonment for violations of this act and rules,
10 regulations and orders of the board; defining perjury;
11 defining remedies; repealing legislation supplied and
12 superseded by this act, and saving rights, duties and
13 proceedings thereunder; and making appropriations.

14 Section 2. The definitions of "board" and "milk components"
15 in section 103 of the act are amended to read:

16 Section 103. Definitions; Construction.--The following terms
17 shall be construed in this act to have the following meanings,
18 except in those instances where the context clearly indicates
19 otherwise:

20 * * *

21 "Board" means the State agency created by this act, to be
22 known as the ["Milk Marketing"] "Pennsylvania Milk Board."

23 * * *

24 "Milk components" means the components of milk, including
25 butterfat and any other components, for which the prices of
26 handlers, producers or both are established by marketing
27 agreements or orders issued under the Agricultural Marketing
28 Agreement Act of 1937 (7 U.S.C. 601, et seq.) and which the
29 [Milk Marketing Board] board determines by regulation are
30 applicable to the marketing areas established under this act.

1 * * *

2 Section 3. Sections 201, 404(14), 1102(a) and (c) and 1104
3 of the act are amended to read:

4 Section 201. Appointment and Terms of Members; Quorum.--(a)

5 There is hereby created an independent administrative board to
6 be known as the Pennsylvania Milk [Marketing] Board. The board
7 shall consist of three members nominated and appointed by the
8 Governor, by and with the advice and consent of two-thirds of
9 all the members of the Senate, for terms of six (6) years each,
10 and until their successors shall have been appointed and
11 qualified; except that the terms of the members first taking
12 office shall expire May first, one thousand nine hundred thirty-
13 nine, May first, one thousand nine hundred forty-one, and May
14 first, one thousand nine hundred forty-three, respectively, as
15 designated by the Governor at the time of appointment and until
16 their successors shall have been appointed and qualified. Of the
17 members appointed after the effective date of this amending act,
18 one shall be appointed to represent consumer interests and shall
19 have the responsibility under the direction of the board for
20 directing the executive secretary to coordinate and supervise
21 the Bureau of Consumer Affairs.

22 (b) The Governor shall designate one of the members of the
23 board as chairman. The chairman shall, when present, preside at
24 all meetings and price hearings, and in his absence a member
25 designated by the chairman shall preside. When presiding at a
26 price hearing, the chairman or acting chairman shall have the
27 status of agency head for the purpose of conducting the hearing.

28 (c) Two members of the board shall constitute a quorum, and
29 any action or order of the board shall require the approval of
30 at least two members.

1 (d) The Governor may remove any board member for
2 inefficiency, neglect of duty, loss of qualification as provided
3 in section 202 or misconduct in office: Provided, That he is
4 given a copy of the charges against him and an opportunity to be
5 publicly heard in person or by counsel in his own defense upon
6 not less than ten days' notice, and that the Governor file with
7 the Department of State a complete statement of all charges made
8 against such board member, together with a complete record of
9 the proceedings and his findings thereon.

10 Section 404. Grounds for Refusal, Suspension or
11 Revocation.--The board shall grant a license to an applicant
12 complying with the provisions of this act and the rules,
13 regulations and orders issued by the board pursuant thereto.
14 Anything in this act to the contrary notwithstanding, a store or
15 controlled affiliate which satisfies all other requirements for
16 licensing shall not be denied an appropriate license if it has
17 been so licensed on the effective date of this amendment. The
18 board may decline to grant a license to an applicant, or may
19 suspend or revoke the right of a licensee or former licensee to
20 apply for a license for a new license period, or may suspend,
21 revoke or refuse to transfer a license already granted to a milk
22 dealer or handler, or may prohibit a milk dealer or handler
23 exempted from the license requirements of this act from
24 continuing to operate as a milk dealer or handler, after
25 determination by the board that the dealer or handler:

26 * * *

27 (14) Has demonstrated through the financial information
28 submitted with his application, a lack of financial
29 responsibility or a probable inability to meet the financial
30 responsibilities imposed by this act or by the act of July 6,

1 1984 (P.L.652, No.136), known as the "Milk Producers' Security
2 Act," and by the regulations of the [Milk Marketing Board]
3 board.

4 * * *

5 Section 1102. Expenses.--(a) As much of the money in the
6 Milk Marketing Fund as may be necessary shall be annually
7 appropriated to the [Milk Marketing Board] board to be used to
8 pay its expenses, including the following:

9 (1) Salaries of the board and of its employes.

10 (2) Rental and other expenses for offices, rooms, garage
11 space and other accommodations outside of the Capitol Buildings,
12 either in or outside of the capital city, occupied by the board.

13 (3) Premiums for [workmen's] workers' compensation insurance
14 covering the officers and employes of the board.

15 (4) Premiums for surety bonds for such officers or employes
16 of the board as may be required by law to furnish such bonds.

17 (5) Purchase and operating costs of motor vehicles required
18 by the board for full-time use, including premiums for liability
19 insurance covering such motor vehicles and the members of the
20 board and employes operating them; also the amount payable to
21 the Department of General Services for the use of automobiles
22 supplied by it for temporary use by the board.

23 (6) Furniture, stationery, materials, supplies and all other
24 overhead expenses of the board.

25 (7) All other expenses of every kind and description
26 necessary for the performance by the board of its work.

27 * * *

28 (c) Before November 1 of each year, the [Milk Marketing
29 Board] board shall estimate its total expenses for the fiscal
30 year beginning July 1 of the following year. This estimate shall

1 be submitted to the Governor in accordance with section 610 of
2 the act of April 9, 1929 (P.L.177, No.175), known as "The
3 Administrative Code of 1929." At the same time the board submits
4 its estimate to the Governor, the board shall also submit that
5 estimate to the General Assembly through the President pro
6 tempore of the Senate and the Speaker of the House of
7 Representatives. The board, or its designated representatives,
8 shall be afforded an opportunity to appear before the Governor
9 regarding its estimate.

10 Section 1104. Payment.--Moneys in the Milk Marketing Fund
11 appropriated to the [Milk Marketing Board] board shall be paid
12 out upon warrant of the State Treasurer drawn after requisition
13 by the secretary of the [Milk Marketing Board] board.

14 Section 4. Section 1204 of the act is repealed:

15 [Section 1204. Joint Study Committee.--There is hereby
16 created a Joint Study Committee which shall study the
17 implementation and effect of resale pricing under this act. The
18 committee shall be in existence until its report hereunder is
19 delivered to the General Assembly not later than December 31,
20 1985. The committee shall consist of the following members:

21 (1) Four producers, one each appointed by the majority
22 leader and minority leader of each house.

23 (2) Four consumers, one each appointed by the majority and
24 minority leaders of each house.

25 (3) Four dealers, one each appointed by the majority and
26 minority leaders of each house.

27 (4) The chairman and the minority chairman of the
28 Agriculture and Rural Affairs Committees of each house, or their
29 designee.

30 (5) One at-large member appointed by the Secretary of

1 Agriculture.

2 At the first meeting of the committee which will be called by
3 the chairman of the Senate Agriculture and Rural Affairs
4 Committee, the committee shall elect a chairman who, with the
5 concurrence of a majority of the members of the committee, shall
6 determine a schedule of meetings for the conduct of committee
7 business. The chairman thus elected, or another member of the
8 committee as appointed by the chairman, shall preside at all
9 meetings of the committee.

10 There is also hereby created an advisory committee to provide
11 assistance and support for the Joint Study Committee and which
12 shall consist of:

13 (1) The chairman of the Pennsylvania Milk Marketing Board
14 and his staff.

15 (2) The Dean of the Pennsylvania State University College of
16 Agriculture and his staff.

17 (3) The Dean of the Wharton School of Business
18 Administration of the University of Pennsylvania and his staff.

19 The purpose of the committee shall be to study and report
20 upon the implementation and effect of the resale milk pricing
21 provisions of this act. The committee shall submit its final
22 report to the Agriculture and Rural Affairs Committee of each
23 house not later than December 1, 1985.]

24 Section 5. A reference in any other act or regulation to the
25 Milk Marketing Board shall be deemed to be a reference to the
26 Pennsylvania Milk Board.

27 Section 6. This act shall take effect in 60 days.