

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 72 Session of 2023

INTRODUCED BY KERWIN, GLEIM, STEHR AND ZIMMERMAN, MARCH 7, 2023

AS REPORTED FROM COMMITTEE ON AGRICULTURE AND RURAL AFFAIRS, HOUSE OF REPRESENTATIVES, AS AMENDED, JUNE 6, 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33 superseded by this act, and saving rights, duties and
34 proceedings thereunder; and making appropriations," IN

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1 LICENSES OF MILK DEALERS, FURTHER PROVIDING FOR PENALTIES IN  
2 LIEU OF SUSPENSION; AND, in weighing and testing, further  
3 providing for certified testers and for certified weighers  
4 and samplers.

5 The General Assembly of the Commonwealth of Pennsylvania  
6 hereby enacts as follows:

7 Section 1. Sections 404.1, 602 and 603 of the act of April <--  
8 28, 1937 (P.L.417, No.105), known as the Milk Marketing Law, are  
9 amended to read:

10 SECTION 404.1. PENALTIES IN LIEU OF SUSPENSION.--IN ANY CASE <--  
11 WHERE THE BOARD SHALL SUSPEND A LICENSE, THE BOARD MAY ACCEPT  
12 FROM THE LICENSEE AN OFFER IN COMPROMISE AT THE RATE OF [ONE  
13 HUNDRED FIFTY DOLLARS (\$150)] ONE THOUSAND DOLLARS (\$1,000) FOR  
14 EACH DAY OF SUSPENSION AS A PENALTY IN LIEU OF SUCH SUSPENSION,  
15 AND THEREUPON RESCIND THE SUSPENSION.

16 Section 602. Certified Testers.--It shall be unlawful for  
17 any milk dealer to buy or receive milk from producers, or to  
18 sell or deliver milk to stores or consumers, on the basis of, or  
19 with reference to, the amount of butterfat or appropriate milk  
20 components contained in such milk, unless the butterfat or  
21 component tests thereof is conducted by a tester certified by  
22 the board.

23 The certified tester shall keep an accurate record of all  
24 tests made, and copies of such record shall be kept for a period  
25 of two (2) years by him and by the milk dealer.

26 Any person who, upon the effective date of this act, is the  
27 holder of a certificate of proficiency for milk testing issued  
28 after examination conducted by the Pennsylvania Department of  
29 Agriculture, shall, upon application to the board, on a form  
30 prescribed by the board, furnishing information including that  
31 pertaining to good character and to the apparatus and methods  
32 used in testing, be issued a certificate and be designated

1 therein as a certified tester.

2 Any person who is not the holder of such certificate of  
3 proficiency upon the effective date of this act, shall, prior to  
4 applying for a tester's certificate, apply to the board for a  
5 certificate of proficiency. Such application shall be  
6 accompanied by a fee [of five dollars (\$5.00).] established  
7 under section 7 of the act of July 1, 1978 (P.L.730, No.132),  
8 known as the "Milk Marketing Fee Act." The applicant shall be  
9 required to pass an examination in milk testing, reasonably  
10 prescribed and conducted by the board, and upon approval of the  
11 application shall be issued a certificate of proficiency.  
12 Thereupon, and [annually] thereafter without such examination,  
13 the person so certified may apply for a tester's certificate as  
14 herein prescribed.

15 The application for a tester's certificate, accompanied by a  
16 fee [of five dollars (\$5.00),] established under section 7 of  
17 the "Milk Marketing Fee Act," shall be filed, upon a form  
18 prescribed by the board, before commencing to test milk[, and  
19 annually thereafter on or before December first].

20 The tester's certificate issued hereunder shall be for [the  
21 term of one calendar year] a term of no more than two (2) years  
22 from the date of issuance, and shall be posted and kept in plain  
23 view in the plant in which the certified tester is employed.

24 Section 603. Certified Weighers and Samplers.--It shall be  
25 unlawful for any milk dealer to buy or receive milk from  
26 producers, or to sell or deliver milk to stores or consumers on  
27 the basis of, or with reference to, the amount of butterfat or  
28 appropriate milk components contained in such milk, unless the  
29 samples taken for testing purposes shall be made by a certified  
30 tester or certified weigher and sampler, and according to the

1 method prescribed in this act or in regulations established by  
2 the board under this act.

3 It shall be unlawful for any person to pick up milk from  
4 farms unless the person making the pickup has a valid tester's  
5 certificate or weigher's or sampler's certificate issued by the  
6 board.

7 Any person who, upon the effective date of this act, is the  
8 holder of a certificate of proficiency for milk weighing and  
9 sampling issued after examination conducted by the Pennsylvania  
10 Department of Agriculture, shall, upon application to the board  
11 on a form prescribed by the board furnishing information  
12 including that pertaining to good character and to apparatus and  
13 methods used in weighing and sampling, be issued a certificate  
14 and be designated therein as a certified weigher and sampler.

15 Any person who is not the holder of such certificate of  
16 proficiency upon the effective date of this act, shall, prior to  
17 applying for a weighing and sampling certificate, apply to the  
18 board for a certificate of proficiency. Such application shall  
19 be accompanied by a fee [of five dollars (\$5.00).] established  
20 under section 8 of the act of July 1, 1978 (P.L.730, No.132),  
21 known as the "Milk Marketing Fee Act." The applicant shall be  
22 required to pass an examination in weighing and sampling milk,  
23 reasonably prescribed and conducted by the board, and upon  
24 approval of the application shall be issued a certificate of  
25 proficiency. Thereupon, and [annually] thereafter without such  
26 examination, the person so certified may apply for a certificate  
27 as a certified weigher and sampler. The application for such  
28 weighing and sampling certificate, accompanied by a fee [of five  
29 dollars (\$5.00),] established under section 8 of the "Milk  
30 Marketing Fee Act," shall be filed, upon a form prescribed by

1 the board, before commencing to sample milk[, and annually  
2 thereafter on or before December first].

3 The weighing and sampling certificate issued hereunder shall  
4 be for [the term of one calendar year] a term of no more than  
5 two (2) years from the date of issuance, and shall be posted and  
6 kept in plain view in the room in which the certified weigher  
7 and sampler is employed.

8 Section 2. This act shall take effect in 60 days.