

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 72 Session of 2023

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

REFERRED TO COMMITTEE ON AGRICULTURE AND RURAL AFFAIRS,
MARCH 7, 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33 superseded by this act, and saving rights, duties and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

weighing and testing, further providing for certified testers and for certified weighers and samplers.

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

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

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

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

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

Any person who is not the holder of such certificate of proficiency upon the effective date of this act, shall, prior to applying for a tester's certificate, apply to the board for a certificate of proficiency. Such application shall be accompanied by a fee [of five dollars (\$5.00).] established under section 7 of the act of July 1, 1978 (P.L.730, No.132),

1 known as the "Milk Marketing Fee Act." The applicant shall be
2 required to pass an examination in milk testing, reasonably
3 prescribed and conducted by the board, and upon approval of the
4 application shall be issued a certificate of proficiency.
5 Thereupon, and [annually] thereafter without such examination,
6 the person so certified may apply for a tester's certificate as
7 herein prescribed.

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

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

17 Section 603. Certified Weighers and Samplers.--It shall be
18 unlawful for any milk dealer to buy or receive milk from
19 producers, or to sell or deliver milk to stores or consumers on
20 the basis of, or with reference to, the amount of butterfat or
21 appropriate milk components contained in such milk, unless the
22 samples taken for testing purposes shall be made by a certified
23 tester or certified weigher and sampler, and according to the
24 method prescribed in this act or in regulations established by
25 the board under this act.

26 It shall be unlawful for any person to pick up milk from
27 farms unless the person making the pickup has a valid tester's
28 certificate or weigher's or sampler's certificate issued by the
29 board.

30 Any person who, upon the effective date of this act, is the

holder of a certificate of proficiency for milk weighing and sampling issued after examination conducted by the Pennsylvania Department of Agriculture, shall, upon application to the board on a form prescribed by the board furnishing information including that pertaining to good character and to apparatus and methods used in weighing and sampling, be issued a certificate and be designated therein as a certified weigher and sampler.

Any person who is not the holder of such certificate of proficiency upon the effective date of this act, shall, prior to applying for a weighing and sampling certificate, apply to the board for a certificate of proficiency. Such application shall be accompanied by a fee [of five dollars (\$5.00).] established under section 8 of the act of July 1, 1978 (P.L.730, No.132), known as the "Milk Marketing Fee Act." The applicant shall be required to pass an examination in weighing and sampling milk, reasonably prescribed and conducted by the board, and upon approval of the application shall be issued a certificate of proficiency. Thereupon, and [annually] thereafter without such examination, the person so certified may apply for a certificate as a certified weigher and sampler. The application for such weighing and sampling certificate, accompanied by a fee [of five dollars (\$5.00),] established under section 8 of the "Milk Marketing Fee Act," shall be filed, upon a form prescribed by the board, before commencing to sample milk[, and annually thereafter on or before December first].

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

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