
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 612

Session of
1975

INTRODUCED BY MESSRS. SHELHAMER, THOMAS, WEIDNER, YAHNER, FRYER,
ZELLER, A. C. FOSTER JR., KLINGAMAN, R. W. WILT, COLE, W. W.
FOSTER, MORRIS, PRATT, GREEN AND DAVIS, FEBRUARY 26, 1975

SENATOR STAPLETON, AGRICULTURE, IN SENATE, AS AMENDED,
FEBRUARY 10, 1976

AN ACT

1 Amending the act of May 27, 1937 (P.L.901, No.241), entitled "An
2 act for the protection of producers of farm produce;
3 providing for the licensing, the bonding or holding
4 collateral of and the regulation of certain dealers in farm
5 produce, as herein defined, within this Commonwealth;
6 conferring powers, and imposing duties on the Department of
7 Agriculture; providing for appeals and injunctions; and
8 prescribing penalties," changing definitions, license dates,
9 license fees and penalties, providing for hearing of
10 complaints by the Department of Agriculture and for
11 arbitration services by the department; and further providing
12 for licenses, records and duties of the department.

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

15 Section 1. Section 1, act of May 27, 1937 (P.L.901, No.241),
16 entitled "An act for the protection of producers of farm
17 produce; providing for the licensing, the bonding or holding
18 collateral of and the regulation of certain dealers in farm
19 produce, as herein defined, within this Commonwealth; conferring
20 powers, and imposing duties on the Department of Agriculture;
21 providing for appeals and injunctions; and prescribing

1 penalties," amended May 7, 1943 (P.L.204, No.105), is amended to
2 read:

3 Section 1. Be it enacted, &c., That the following words or
4 phrases, unless the context clearly indicates otherwise, shall
5 have the meanings ascribed to them in this section:

6 (a) "Dealer in farm produce" means any person, association,
7 copartnership or corporation engaged in the business of buying,
8 receiving, selling, exchanging, negotiating, or soliciting the
9 sale, resale, exchange or transfer of any farm produce from the
10 producer [on consignment or on a net return basis] or his agent
11 in wholesale or jobbing quantities.

12 (b) "Department" means the Department of Agriculture of this
13 Commonwealth.

14 (c) "Farm produce" includes all agricultural, horticultural,
15 vegetable, fruit, and floriculture products of the soil;
16 poultry, eggs, nuts, flowers, [and] honey, mushrooms and
17 Christmas trees, but shall not include timber products, tea,
18 coffee, live stock, wool, GRAIN, milk or milk products. <—

19 (d) ["Net return basis" means a purchase for sale of farm
20 produce from a producer at an unfixed or unstated price at the
21 time the produce is shipped from the point of origin, and it
22 shall include all purchases made "at the market price," and on
23 similar terms, which indicate that the buyer is the final
24 arbiter of the price to be paid.] "Producer" means any grower of
25 farm produce in this Commonwealth for marketing.

26 (e) ["On consignment" means a sending, transfer or delivery
27 of farm produce by a producer to a dealer in farm produce, for
28 the purpose of sale upon a commission basis.] "Wholesale" or
29 "jobbing quantity" means any one unit of shipment, or purchase
30 of farm produce, having a gross value of more than five hundred

1 dollars (\$500).

2 [(f) "Producer" means any producer of farm produce in this
3 Commonwealth.]

4 Section 2. Sections 2, 3, and 4 of the act are amended to
5 read:

6 Section 2. The provisions of this act shall not apply to--

7 (a) The sale of farm produce for cash, cash to mean
8 settlement in full, in United States currency, CERTIFIED CHECK <—
9 OR UNITED STATES POSTAL MONEY ORDER, on or before delivery;

10 (b) [Farmers who sell farm produce raised by themselves, or
11 who, at the time of such sales, sell farm produce raised by
12 their neighbors on behalf of such neighbors;] Producers
13 marketing farm produce of their own raising;

14 (c) [Seeds sold at retail;] ~~Agricultural cooperative~~ <—
15 ~~associations marketing farm produce for their members only;~~
16 PROCESSORS OF FARM PRODUCE WHEN SUCH SHIPMENTS OR PURCHASES ARE <—
17 COVERED BY A WRITTEN CONTRACT, DULY SIGNED BY THE PRODUCER;

18 (d) [Agricultural cooperative associations which market farm
19 produce for their members.] ~~Processors of farm produce when such~~ <—
20 ~~shipments or purchases are covered by a written contract, duly~~
21 ~~signed by the producer;~~

22 ~~(e) Transactions subject to the provisions of the Federal~~
23 ~~"Perishable Agricultural Commodities Act of 1930."~~ TRANSACTIONS <—
24 SUBJECT TO THE PROVISIONS OF THE FEDERAL "PERISHABLE
25 AGRICULTURAL COMMODITIES ACT OF 1930."

26 Section 3. [On and after December thirty-first, one thousand
27 nine hundred and thirty-seven, it] It shall be unlawful for any
28 dealer in farm produce to engage in business in this
29 Commonwealth, unless he or it shall hold a license issued by the
30 department as provided in this act.

1 Section 4. [Every dealer] Dealers in farm produce, desiring
2 to transact business within this Commonwealth, shall annually on
3 or before [December first] April thirtieth, file an application
4 for such license with the department. The application shall be
5 on a form furnished by the department, and, together with such
6 other information as the department [shall] may require, shall
7 state--

8 (a) The kind or kinds of farm produce which the applicant
9 proposes to handle;

10 (b) The full name or title of the applicant, or if the
11 applicant be an association or copartnership, the name of each
12 member of such association or copartnership, or if the applicant
13 be a corporation, the name of each officer of the corporation;

14 (c) The names of the local agent or agents of the applicant,
15 if any;

16 (d) The cities, boroughs, towns, and townships within which
17 places of business of the applicant will be located, together
18 with the street or mailing address of each.

19 Section 3. Sections 5 and 7 of the act, amended May 7, 1943
20 (P.L.204, No.105), are amended to read:

21 Section 5. Unless the department refuses the application on
22 one or more of the grounds hereinafter provided, it shall issue
23 to such applicant, upon the payment of [proper] required fees, a
24 license entitling the applicant to conduct business as a dealer
25 in farm produce at each place named in the application. Such
26 license shall [be] continue in force [from the date issued until
27 and including the thirty-first day of December of the same year]
28 until April thirtieth next following its date of issuance. The
29 fee for such license shall be [five dollars (\$5.00) for each
30 place of business which the applicant conducts or names in the

1 application] twenty-five dollars (\$25.00).

2 Section 7. Every dealer in farm produce shall, upon the
3 receipt of farm produce [for which payment is not made on
4 delivery], and as he handles and disposes of the same, make and
5 preserve for [at least two years] a reasonable length of time a
6 record thereof, specifying the name and address of the producer,
7 [consigning or shipping such farm produce] the date of receipt,
8 and the kind and quality of such produce. [the amount of goods
9 sold, the name and address of the purchaser, except that where
10 sales total less than five dollars (\$5.00) in value, such sales
11 may be made to order of "cash," the selling price thereof, and
12 the items of expenses connected therewith. An "account sales,"
13 together with payment in settlement for said shipment, shall be
14 mailed to the producer within forty-eight hours after the sale
15 of such farm produce, unless otherwise agreed in writing.] This
16 record shall be prepared and maintained in such manner as to
17 facilitate audit. Full payment shall be made to the producer
18 promptly upon acceptance of farm produce. If the shipment is
19 handled on consignment, joint account or net return basis, the
20 record shall also give an accounting of the amount of goods
21 sold, the selling price thereof, and the items of expenses
22 connected therewith. Such an accounting of resale shall be
23 furnished to the producer at or before time of final settlement.

24 Section 4. Section 8 of the act is amended to read:

25 Section 8. The department shall have power to investigate
26 upon complaint, in such form as it may require, of [an] any
27 financially interested person or upon its own initiative, the
28 record of any applicant or licensee, or any transaction
29 involving the solicitation, receipt, sale or attempted sale of
30 farm produce, the failure to make proper and true accounts and

1 settlements at prompt and regular intervals, the making of false
2 statements as to [condition] market conditions with intent to
3 deceive, rejection of any farm produce without just cause, the
4 making of false statements as to condition, quality or quantity
5 of goods received [or while in storage, the making of false
6 statements as to market conditions with intent to deceive], or
7 the failure to make payment for goods received, or other alleged
8 [injurious transactions] unethical practices. For such purposes
9 the department may examine, at the place or places of business
10 of the applicant or licensee, his ledgers, books of accounts,
11 memoranda, and other documents which relate to the transaction
12 involved, and may take testimony thereon under oath.

13 Section 5. The act is amended by adding a section to read:

14 Section 8.1. Any person, or persons, complaining of any
15 violation of any provision of section 8 by any dealer may at any
16 time within one year after the alleged grievance occurs apply to
17 the department by petition which shall briefly state the facts
18 concerning such cause of complaint. Thereupon, if, in the
19 opinion of the department, the facts therein contained warrant
20 such action, a copy of the complaint thus made shall be
21 forwarded by the department to the dealer complained of, who
22 shall be called upon to satisfy the complaint or to answer it in
23 writing within a reasonable time, to be prescribed by the
24 department.

25 Section 6. Section 9 of the act, amended May 7, 1943
26 (P.L.204, No.105), is amended to read:

27 Section 9. The department [may] SHALL decline to grant a
28 license or [may] SHALL suspend or revoke a license already
29 granted if it is satisfied that the applicant or licensee has
30 either--

<—

<—

1 (1) Suffered a money judgment to be entered against him upon
2 which execution has been returned unsatisfied; or

3 (2) Made false charges for handling or other services
4 rendered; or

5 (3) Failed to account promptly and properly, or to make
6 settlements with any producer; or

7 (4) Made any false statement or statements as to condition,
8 quality or quantity of goods received or held for sale when he
9 could have ascertained the true condition, quality or quantity
10 by reasonable inspection; or

11 (5) Made any false or misleading statement or statements as
12 to market conditions [or service rendered]; or

13 (6) [Been guilty of a fraud] Made any false statement or
14 statements in the application for or the procurement or the
15 renewal of a license; or

16 (7) Directly or indirectly purchased farm produce received
17 on consignment or on a net return basis for his own account,
18 without prior authority, from the producer, consigning the same,
19 or without notifying such producer; or

20 (8) Has rejected, dumped, discarded or destroyed any
21 shipment of farm produce from the producer without just cause;
22 or

23 (9) Has, within three years, been adjudicated or discharged
24 as a bankrupt or was an officer, director, stockholder, partner
25 or owner of a firm adjudicated or discharged as a bankrupt.

26 ~~Except, that at the discretion of the secretary, such person or~~ <—
27 ~~persons may be licensed if surety bonds, in the form and amount~~
28 ~~acceptable, are furnished.~~

29 Section 7. Sections 10 and 11 of the act are amended to
30 read:

1 Section 10. Before the department shall refuse, suspend or
2 revoke any license it shall give ten days' notice, by registered
3 mail, to the applicant or licensee of a time and place of
4 hearing. At such hearing the applicant or licensee shall be
5 privileged to appear in person or by or with counsel and to
6 produce witnesses. If the department shall find the applicant or
7 licensee shall have been guilty of any of the acts provided in
8 section nine of this act, the department may refuse, suspend or
9 revoke such license, and shall give immediate notice of its
10 action to the applicant or licensee. The department may, SHALL, <—
11 at its discretion, grant a renewal of license, following
12 revocation, if the applicant furnishes a bond of such nature,
13 tenure and amount as may be determined by the secretary to offer
14 adequate assurance that the business of the applicant will be
15 conducted in accordance with the provisions of this act.

16 Section 11. Any applicant or licensee aggrieved by any
17 decision of the department, shall have the right of appeal
18 therefrom, within thirty days from the date of notice, to the
19 [court of common pleas of Dauphin County.

20 From a decision of the court of common pleas of Dauphin
21 County an appeal may be taken by either party to the Superior or
22 Supreme Court of Pennsylvania, as in other cases] Commonwealth
23 Court.

24 No appeal shall act as a supersedeas, but pending final
25 disposition of an appeal under this section, the department may,
26 for special cause shown, grant, in writing, temporary
27 permission, revocable at any time and subject to such terms and
28 conditions as the department may prescribe, to transact business
29 as a dealer in farm produce, but unless such permission be
30 granted, any applicant to whom a license has been refused, and

1 any licensee whose license has been revoked by the department,
2 who shall do business as a dealer in farm produce, shall be
3 liable therefor to the same extent as if no application had been
4 filed.

5 Section 8. The act is amended by adding a section to read:

6 Section 11.1. Upon agreement, in writing, by the parties in
7 dispute, the department may render arbitration services covering
8 complaints wherein the amount claimed, exclusive of any sum not
9 in dispute, does not exceed five hundred dollars (\$500.00). The
10 department may require full settlement of the undisputed amount
11 as a prerequisite to rendering such arbitration services.

12 Section 9. Section 12 of the act, amended May 7, 1943
13 (P.L.204, No.105), is amended to read:

14 Section 12. Any dealer in farm produce violating the
15 provisions of section three of this act, or interfering with an
16 agent of the department in the enforcement of this act, shall
17 [for the first offense], upon conviction in a summary
18 proceeding, be sentenced to pay a fine of not less than [fifty
19 dollars (\$50.00)] twenty-five dollars (\$25.00) nor more than
20 [three hundred dollars (\$300.00)] two hundred dollars (\$200.00)
21 and costs of prosecution, and in default of payment of such fine
22 and costs, shall be sentenced to undergo imprisonment in the
23 county jail for a period not exceeding [sixty (60) days, and for
24 a second or subsequent offense shall be guilty of a misdemeanor
25 and shall, upon conviction thereof, be sentenced to pay a fine
26 of not less than five hundred dollars (\$500.00) nor more than
27 one thousand dollars (\$1,000), or to undergo imprisonment not
28 exceeding one year, or both, in the discretion of the court]
29 thirty (30) days.

30 Section 10. Sections 13 and 14 of the act are amended to

1 read:

2 Section 13. The Attorney General, at the request of the
3 department, may, in the name of the Commonwealth, institute
4 proceedings in equity in the [court of common pleas of Dauphin
5 County] Commonwealth Court for the purpose of enjoining the
6 conduct of business in this Commonwealth contrary to the
7 provisions of this act, and for such purpose jurisdiction is
8 hereby conferred upon said court. In such case the Attorney
9 General shall not be required to give bond.

10 Section 14. The department shall [enforce] adopt and shall
11 [adopt] enforce rules, and regulations deemed necessary to carry
12 out the provisions of this act.