

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2772

Session of
1978

INTRODUCED BY MESSRS. YAHNER, RENWICK, MANDERINO, MISS SIRIANNI,
MESSRS. GEORGE, MORRIS, WARGO, SHUPNIK, PITTS, WENGER,
CALTAGIRONE, KLINGAMAN, O'CONNELL, THOMAS, SPENCER,
S. E. HAYES, BROWN AND DeVERTER, SEPTEMBER 18, 1978

AS REPORTED FROM COMMITTEE ON AGRICULTURE AND RURAL AFFAIRS,
AS AMENDED, HOUSE OF REPRESENTATIVES, SEPTEMBER 21, 1978

AN ACT

1 Providing for the termination of contracts for the handling of
2 milk, AND PROVIDING FOR ENFORCEMENT, PENALTIES AND REMEDIES. <—

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

5 Section 1. Definitions.

6 As used in this act, the following words and phrases shall
7 have, unless the contexts clearly indicate otherwise, the
8 meanings given to them in this section:

9 "Handle." The doing of any one or several or all of the
10 following acts: to buy, sell, barter, acquire, store, process,
11 consign, receive, transport, control as owner, buyer, seller,
12 consignee, consignor, bailee, bailor, broker or factor.

13 "Milk." Includes fluid milk and cream, fresh, sour or
14 storage, skimmed milk, flavored milk or milk drink, buttermilk,
15 ice cream mix, and condensed or concentrated whole or skimmed
16 milk, except when contained in hermetically sealed cans.

1 "Milk dealer" or "handler." Any person, including any store
2 or subdealer or subhandler, as hereinafter defined, who
3 purchases or receives or handles on consignment or otherwise
4 milk within the Commonwealth, for sale, shipment, storage,
5 processing or manufacture, within or without the Commonwealth,
6 whether on behalf of himself or others, or both. A producer who
7 delivers milk to a milk dealer or handler only shall not be
8 deemed a milk dealer or handler. If a cooperative distributes or
9 makes available on consignment or otherwise milk within this
10 Commonwealth to stores, as defined in this act, or to consumers,
11 as defined in this act, or to other milk dealers or handlers, as
12 defined in this act, or acts as an agent for its members, it
13 shall be deemed to be a milk dealer or handler as to that part
14 of its business, and shall be governed by the provisions of this
15 act applicable thereto. Such cooperative shall be governed by
16 the applicable provisions of this act as to the prices at which
17 it sells, markets, or bargains to sell or make available on
18 consignment or otherwise milk within this Commonwealth to milk
19 dealers, handlers and others.

20 "Producer." A person producing milk.

21 "Store." Includes a grocery store, hotel, restaurant, soda
22 fountain, dairy products store, or any similar mercantile
23 establishment which sells or distributes milk.

24 "Subdealer" or "subhandler." Any milk dealer or handler
25 handling milk within the Commonwealth, who sells or delivers all
26 such milk to consumers or stores in the same containers as those
27 in which he purchased or acquired it from other milk dealers or
28 handlers.

29 Section 2. Termination of contracts or agreements.

30 (a) Notice.--Except as provided in subsection (b) relating

1 to the termination of contracts or purchasing agreements for
2 insufficient poundage, no milk dealer or handler shall terminate
3 his contract or purchasing agreement with a milk producer and no
4 producer shall terminate his contract or sales agreement with a
5 dealer or handler except by giving such producer or dealer at
6 least a 60-day written notice prior to termination. The dealer
7 shall specify in such notice the reasons for termination and
8 shall pay in full the producer whose contract has been
9 terminated by the 20th of the second following month.

10 (b) Insufficient poundage.--No dealer or handler shall for a
11 period of ~~six months~~ 90 DAYS, terminate his contract or <—
12 purchasing agreement with a producer for insufficient poundage
13 where such producer has, in response to the notice required by
14 subsection (a) given adequate assurance to the dealer or handler
15 that he will increase production to meet the requirements of the
16 dealer or handler. At the expiration of the ~~six month~~ 90-DAY <—
17 period following the giving of such assurance the dealer or
18 handler may terminate the contract or purchasing agreement if
19 his poundage requirements remain unsatisfied.

20 SECTION 3. ENFORCEMENT. <—

21 (A) POWERS AND DUTIES OF MILK MARKETING BOARD.--THE MILK
22 MARKETING BOARD SHALL HAVE THE POWER, AND IT SHALL BE ITS DUTY,
23 TO ENFORCE THIS ACT.

24 (B) PENALTIES AND REMEDIES.--THE PENALTIES AND REMEDIES
25 PROVIDED FOR IN ARTICLE X OF THE ACT OF APRIL 28, 1937 (P.L.417,
26 NO.105), KNOWN AS THE "MILK MARKETING LAW," SHALL APPLY TO THIS
27 ACT.

28 Section 3 4. Effective date. <—

29 This act shall take effect in 60 days.