

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2426 Session of
1990

INTRODUCED BY CHADWICK, BRANDT, JACKSON, FARGO, SEMMEL, MORRIS,
DISTLER, LAUGHLIN, FAIRCHILD, MELIO, ANGSTADT, COY, CLYMER,
COHEN, NOYE, MERRY, PESCI, PHILLIPS, HERSHEY, TRELLO, LEE,
BARLEY, MAINE AND PRESTON, APRIL 3, 1990

REFERRED TO COMMITTEE ON AGRICULTURE AND RURAL AFFAIRS,
APRIL 3, 1990

AN ACT

1 Amending the act of April 28, 1937 (P.L.417, No.105), entitled,
2 as amended, "An act relating to milk and the products
3 thereof; creating a Milk Marketing Board; establishing its
4 jurisdiction, powers and duties; regulating the production,
5 transportation, manufacturing, processing, storage,
6 distribution, delivery and sale of milk and certain products
7 thereof; providing for the licensing of milk dealers and the
8 payment of fees therefor; requiring milk dealers to file
9 bonds to secure payment for milk to producers and certain
10 milk dealers; authorizing the holding of hearings and the
11 issuance of subpoenas by the board; conferring jurisdiction
12 upon courts to punish contempts and to prohibit violations of
13 this act 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;

1 defining remedies; repealing legislation supplied and
2 superseded by this act, and saving rights, duties and
3 proceedings thereunder; and making appropriations," further
4 providing for the term of certain licenses; and making an
5 appropriation.

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

8 Section 1. Section 602 and 603 of the act of April 28, 1937
9 (P.L.417, No.105), known as the Milk Marketing Law, amended
10 December 21, 1984 (P.L.1278 No.243), are amended to read:

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

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

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

29 Any person who is not the holder of such certificate of
30 proficiency upon the effective date of this act, shall, prior to
31 applying for a tester's certificate, apply to the board for a
32 certificate of proficiency. Such application shall be

1 accompanied by a fee of five dollars (\$5.00). The applicant
2 shall be required to pass an examination in milk testing,
3 reasonably prescribed and conducted by the board, and upon
4 approval of the application shall be issued a certificate of
5 proficiency. Thereupon, and annually thereafter without such
6 examination, the person so certified may apply for a tester's
7 certificate as herein prescribed.

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

12 The tester's certificate issued hereunder shall be for the
13 term of one calendar year, and shall be posted and kept in plain
14 view in the plant in which the certified tester is employed.

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

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

28 Any person who, upon the effective date of this act, is the
29 holder of a certificate of proficiency for milk weighing and
30 sampling issued after examination conducted by the Pennsylvania

1 Department of Agriculture, shall, upon application to the board
2 on a form prescribed by the board furnishing information
3 including that pertaining to good character and to apparatus and
4 methods used in weighing and sampling, be issued a certificate
5 and be designated therein as a certified weigher and sampler.

6 Any person who is not the holder of such certificate of
7 proficiency upon the effective date of this act, shall, prior to
8 applying for a weighing and sampling certificate, apply to the
9 board for a certificate of proficiency. Such application shall
10 be accompanied by a fee of five dollars (\$5.00). The applicant
11 shall be required to pass an examination in weighing and
12 sampling milk, reasonably prescribed and conducted by the board,
13 and upon approval of the application shall be issued a
14 certificate of proficiency. Thereupon, and annually thereafter
15 without such examination, the person so certified may apply for
16 a certificate as a certified weigher and sampler. The
17 application for such weighing and sampling certificate,
18 accompanied by a fee of five dollars (\$5.00), shall be filed,
19 upon a form prescribed by the board, before commencing to sample
20 milk, and annually thereafter on or before [December] July
21 first.

22 The weighing and sampling certificate issued hereunder shall
23 be for the term of one calendar year, and shall be posted and
24 kept in plain view in the room in which the certified weigher
25 and sampler is employed.

26 Section 2. (a) If enacted prior to October 1, 1990, this
27 act establishes initial license terms as July 1, 1991, to June
28 30, 1992. Any license due to expire December 1, 1990, is hereby
29 extended to June 30, 1991.

30 (b) If enacted on or after October 1, 1990, but prior to

1 October 1, 1991, this act establishes initial license terms as
2 July 1, 1992, to June 30, 1993. Any license due to expire
3 December 1, 1991, is hereby extended to June 30, 1992.

4 Section 3. The sum of \$25,000 is hereby appropriated to the
5 Milk Marketing Board to replace revenue loss during the six
6 month extension period and to pay for the expenses of issuing
7 new licenses. This appropriation shall not lapse.

8 Section 4. This act shall take effect immediately.