

Veto No. 5

HB 188

June 11, 1976

To the Honorable, the House of Representatives
of the Commonwealth of Pennsylvania:

I return herewith, without my approval, House Bill No. 188, Printer's No. 3206, entitled "An act amending the act of March 4, 1971 (P.L.6, No.2), entitled 'Tax Reform Code of 1971,' further providing for the term 'tangible personal property' and exempting certain fish feed from the sales tax," for the following reasons:

This bill would exclude from the sales tax the sales of fish feed purchased by or on behalf of fish cooperatives or nurseries approved by the Pennsylvania Fish Commission.

This provision is ambiguous, vague and practically impossible to administer. It would also reduce revenues to the Commonwealth.

The exemption applies to "fish cooperatives" or "nurseries approved by the Pennsylvania Fish Commission." Neither of these terms are statutorily defined for purposes of qualification or limitation. Furthermore, the exemption applies to sales at retail or use "on behalf of" fish cooperatives or nurseries.

An analysis of this bill indicates that there is no limitation on the scope of the exemption or on the person to whom "fish feed" is sold. Moreover, anyone alleging that the sale or purchase of fish feed is being made "on behalf of" a fish cooperative or nursery would qualify for exemption. Clearly, no administrative procedure could be developed to cover such tax free purchases.

I note that the bill also excludes sales of energy to non-profit cooperative community housing corporations when that energy is purchased for residential use. This provision would have been a first step in clarifying that sales of steam, fuel oil, natural gas and electricity should not be taxable to individual owners of cooperatives and condominiums. Home owners and many apartment dwellers do not pay tax on these items; and it therefore seems logical that condominium owners should not pay the tax either.

I have long supported efforts to eliminate the sales tax from consumer items wherever possible. I feel the sales tax is by its very nature a regressive tax.

I hope that the General Assembly will consider a bill excluding from the sales tax energy sales to all cooperatives and condominiums in context with its impact on state revenues. However, the tax exclusion as found in House Bill No. 188 appears to be both inartfully drawn and applicable to only a very limited type of housing to the exclusion of all others.

For these reasons, I must disapprove House Bill No. 188.

MILTON J. SHAPP