

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2139 Session of 2009

INTRODUCED BY MYERS, BELFANTI, BISHOP, BRIGGS, CARROLL,
D. COSTA, P. COSTA, DeWEESE, FLECK, FRANKEL, GERGELY,
GRUCELA, HALUSKA, HANNA, HENNESSEY, HORNAMAN, JOSEPHS, KORTZ,
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MIRABITO, MOUL, MUNDY, MUSTIO, M. O'BRIEN, PARKER, READSHAW,
SIPTROTH, M. SMITH, SONNEY, STABACK, STERN, TALLMAN, WAGNER,
WATERS, WHEATLEY, REICHLEY AND STURLA, DECEMBER 8, 2009

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES,
MARCH 9, 2010

AN ACT

1 Providing for the Pennsylvania Agricultural Surplus System, for
2 powers and duties of the Department of Agriculture and for
3 the distribution and utilization of wildlife; and preempting
4 certain municipal ordinances.

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

7 Section 1. Short title.

8 This act shall be known and may be cited as the Pennsylvania
9 Agricultural Surplus System Act.

10 Section 2. Declaration of policy.

11 The General Assembly finds and declares as follows:

12 (1) This Commonwealth is a worldwide leader in
13 agricultural production and food processing.

14 (2) Despite this Commonwealth's agricultural
15 productivity, a significant number of Pennsylvanians continue
16 to struggle with hunger and food insecurity and lack access

1 to sufficient nutritious food.

2 (3) Hunger and food insecurity are harmful to the health
3 and well-being of Pennsylvanians, especially children and
4 seniors, and have a detrimental impact on urban, suburban and
5 rural communities throughout this Commonwealth.

6 (4) Increasing the consumption of fresh fruits and
7 vegetables and other nutritious foods by Pennsylvanians
8 living in low-income households can help reduce instances of
9 diet-related illnesses and medical conditions, including
10 obesity and diabetes, and lower health care costs.

11 (5) This Commonwealth is home to a network of regional
12 food banks, food pantries and cupboards, soup kitchens and
13 other private charitable food assistance providers with the
14 capacity to safely and efficiently distribute food to people
15 in need.

16 (6) This network, through the Pennsylvania Association
17 of Regional Food Banks, has demonstrated the capacity to
18 administer food distribution in collaboration with the
19 Department of Agriculture as evidenced by the success of the
20 Commodity Supplemental Food Program and the PASS pilot
21 program.

22 (7) Pennsylvania's farmers, food packers and processors
23 and Pennsylvanians who rely upon the network would derive
24 mutual benefit from the establishment of a system linking the
25 agricultural community with the food assistance network for
26 the purpose of acquiring surplus agricultural products and
27 distributing these products to Pennsylvania residents
28 challenged by hunger and food insecurity.

29 Section 3. Definitions.

30 The following words and phrases when used in this act shall

1 have the meanings given to them in this section unless the
2 context clearly indicates otherwise:

3 "Agricultural products." Any fowl, animal, vegetable or
4 other stuff, product or article which is customary food or which
5 is proper food for human beings. The term shall include wildlife
6 or portions thereof. The term shall specifically exclude canned
7 goods that are rusted, leaking or swollen or canned goods that
8 are defective or cannot, for health reasons, otherwise be
9 offered for sale to members of the general public.

10 "Association." An association of regional food banks based
11 in this Commonwealth selected by the department to assist with
12 PASS.

13 "Department." The Department of Agriculture of the
14 Commonwealth.

15 "PASS." The Pennsylvania Agricultural Surplus System
16 established under this act.

17 "Secretary." The Secretary of Agriculture of the
18 Commonwealth.

19 "Wildlife." As defined in 34 Pa.C.S. § 102 (relating to
20 definitions) and taken by lawful hunting in accordance with 34
21 Pa.C.S. (relating to game) and 58 Pa. Code (relating to
22 recreation).

23 Section 4. PASS.

24 (a) Authorization.--The department is authorized to award a
25 contract or contracts for the purpose of developing and
26 operating PASS as a safe, fast and convenient system for this
27 Commonwealth's food industry to donate nutritious products to
28 the private charitable food assistance network operating within
29 this Commonwealth.

30 (b) Requirements.--PASS shall include the following:

1 (1) Identification of sources of nutritious surplus
2 agricultural products available for distribution to food
3 banks in this Commonwealth, including a list of farmers in
4 this Commonwealth who have agreed to supply food products
5 from farms located in this Commonwealth, verifiable by the
6 department.

7 (2) Determination of cost-effective mechanisms for
8 transportation of these agricultural products to maximize
9 freshness.

10 (3) Encouragement of food donations by growers, packers
11 and processors through reimbursements for services needed to
12 prepare the donations for safe and efficient transportation
13 and distribution.

14 (4) Distribution of these donated nutritious surplus
15 agricultural products to needy or low-income individuals and
16 families by the member organizations of the association using
17 a formula for the equitable distribution of donated products
18 identical to the formula used in the administration of the
19 State Food Purchase Program. The department shall maintain a
20 list of members of the association eligible for participation
21 in the distribution of donated products.

22 (5) Administration by the association.

23 (6) Oversight by the department.

24 (7) An annual report to the secretary by the association
25 providing detailed information on the sources, types and
26 pounds of product donated, the distribution of these products
27 and the number of households served by the distributions.

28 Section 5. Administration and contracting.

29 Funds appropriated for PASS may be used for the
30 administrative purposes of PASS, including contracting with the

1 association to carry out the provisions of this act.

2 Section 6. Regulations.

3 (a) General rule.--The department shall promulgate
4 regulations as it deems necessary to carry out the purposes of
5 this act.

6 (b) Preemption.--The provisions of this act, section 5.1 of
7 the act of July 10, 1981 (P.L.234, No.76), known as the Donated
8 Food Limited Liability Act, and the regulations promulgated
9 under that act and this act shall supersede and preempt any
10 ~~municipal ordinance, rule or regulation insofar as the~~ ←
11 ~~ordinance, rule or regulation relates to the distribution or use~~
12 ~~of wildlife donated~~ LAW, ORDINANCE, RULE OR REGULATION REQUIRING ←
13 A POSTMORTEM INSPECTION BY A LICENSED VETERINARIAN OR
14 VETERINARIAN'S DESIGNEE OF WILDLIFE DONATED, DISTRIBUTED AND
15 USED as food.

16 Section 7. Funding.

17 PASS shall acquire and distribute Pennsylvania food products
18 to the extent funds are made available by the General Assembly.

19 Section 8. Effective date.

20 This act shall take effect in 60 days.