

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 224 Session of 2022

INTRODUCED BY LAWRENCE, OWLETT, MOUL, CAUSER, BERNSTINE, BOBACK, BURGOS, COOK, SCHLEGEL CULVER, ECKER, FEE, HENNESSEY, HICKERNELL, IRVIN, JAMES, KAUFFMAN, KENYATTA, LONGIETTI, MENTZER, MILLARD, B. MILLER, PICKETT, RYAN, STAMBAUGH, STRUZZI, HERSHEY, ZIMMERMAN, GILLEN, ARMANINI AND JOZWIAK, MARCH 24, 2022

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, APRIL 12, 2022

AN ACT

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

1 imprisonment for violations of this act and rules,  
2 regulations and orders of the board; defining perjury;  
3 defining remedies; repealing legislation supplied and  
4 superseded by this act, and saving rights, duties and  
5 proceedings thereunder; and making appropriations," in  
6 purpose, short title and definitions, further providing for  
7 definitions and construction; in general powers of the board,  
8 providing for collection of premiums; in prices of milk,  
9 providing for board established premiums and further  
10 providing for cooperatives; and, in moneys and expenses of  
11 board, further providing for Milk Marketing Fund and for  
12 payment and providing for audits.

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

15 Section 1. Section 103 of the act of April 28, 1937  
16 (P.L.417, No.105), known as the Milk Marketing Law, is amended  
17 by adding a definition to read:

18 Section 103. Definitions; Construction.--The following terms  
19 shall be construed in this act to have the following meanings,  
20 except in those instances where the context clearly indicates  
21 otherwise:

22 \* \* \*

23 "Board established premium" means a fee or charge established  
24 by official order of the board on a class or classes of milk  
25 that is in addition to a price fixed for milk.

26 \* \* \*

27 Section 2. The act is amended by adding sections to read:

28 Section 312. Collection of Premiums.--The board is hereby  
29 vested with the authority to, by official order, coordinate,  
30 facilitate or establish the collection and distribution of board  
31 established premiums.

32 Section 801.1. Board Established Premiums.--The board may  
33 fix, by official order, board established premiums.

34 Section 3. Sections 809, 1101 and 1104 of the act are  
35 amended to read:

36 Section 809. Cooperatives.--(a) It is hereby declared to be

1 the legislative intent that no provision of this act shall  
2 prevent, and no provision contained herein shall be deemed or  
3 construed to prevent, any cooperative agricultural association  
4 or corporation organized under the laws of this Commonwealth, or  
5 a similar association or corporation organized under the laws of  
6 this or any other state, and engaged in making collective sales  
7 or in the marketing of milk for the producers thereof, from  
8 blending the net proceeds of its sales or consignments or  
9 deliveries in all its markets or of its sales or deliveries  
10 within any particular market in various classes and whether in  
11 fluid form or as manufactured products, both within and without  
12 the Commonwealth, and paying its producers such blended price,  
13 with such deductions and differentials as may be authorized  
14 under contract between such association or corporation, and its  
15 producers, and with prior written approval of the board, or from  
16 making collective sales of the milk of its members and other  
17 producers represented by it, or from making such sales or  
18 deliveries at a blended price based upon sales or deliveries  
19 thereof in the various classes, and whether in fluid form or as  
20 manufactured products, both within and without the Commonwealth,  
21 which price is to be paid either directly to the producers or to  
22 the cooperative agricultural association or corporation. Nothing  
23 herein contained shall prevent any milk dealer or handler from  
24 contracting for his milk with such cooperative agricultural  
25 association or corporation, upon such basis; but all such  
26 contracts shall be upon the basis of the prices fixed by the  
27 board, with the result that the net price received for milk by  
28 such cooperative association or corporation shall be  
29 commensurate with such prices. No director or officer of a  
30 cooperative association or corporation shall offer, nor shall

1 milk dealers or handlers, or agents thereof, receive from any  
2 producer or from such cooperative association or corporation,  
3 directly or indirectly, any discounts, rebates, free service, or  
4 compensation through rentals, extension of credit, or otherwise  
5 for the purpose or with the effect, of reducing the net cost to  
6 the dealer or handler for milk purchased or received by or  
7 through such cooperative association or corporation.

8 (b) No provision of this act shall be deemed or construed to  
9 affect the contracts of such cooperative agricultural  
10 association or corporation with its producers, except as  
11 hereinafter specifically provided, nor to affect or abridge the  
12 rights and powers of such an association or any of its  
13 operations: Provided, however, That the powers of subpoena,  
14 entry, and inspection, vested in the board under this act, shall  
15 apply for the purpose of examining and auditing books and  
16 records of any such cooperative agricultural association or  
17 corporation, at reasonable intervals, for the purpose of  
18 administering this act. This section shall not, however, be  
19 construed to exempt such association or corporation from the  
20 jurisdiction of the board over the prices at which it may sell  
21 milk to milk dealers or handlers, stores or consumers[.] or from  
22 the jurisdiction of the board over the collection and  
23 distribution of board established premiums under section 312.

24 (c) Every cooperative agricultural association or  
25 corporation operating under the provisions of this section shall  
26 file with the board a copy of its certificate of incorporation  
27 and by-laws, and a copy of each form of contract employed in its  
28 relations with producers, within sixty (60) days after the  
29 effective date of this act.

30 Section 1101. Milk Marketing Fund.--(a) All moneys

1 collected or received by the board, arising from license fees,  
2 penalties, permits or any other source, shall be paid by the  
3 board into the State Treasury through the Department of Revenue,  
4 and shall, by the State Treasurer, be placed in a separate fund  
5 to be known as the "Milk Marketing Fund." Fines imposed under  
6 this act shall be payable to, and collected by, the board, and  
7 similarly placed in the Milk Marketing Fund.

8 (b) Moneys collected or received by the board, that are not  
9 funds of the Commonwealth, but are due to producers, dealers or  
10 handlers for, or on account of, milk acquired or received by  
11 dealers or handlers from producers or other dealers or handlers,  
12 and placed in the Milk Marketing Fund, shall be paid to the  
13 persons entitled thereto by the State Treasurer, as directed by  
14 the board.

15 (c) The board may direct, by official order, a transfer by  
16 the State Treasurer of excess moneys within the Milk Marketing  
17 Fund to the General Fund.

18 Section 1104. Payment.--(a) Moneys in the Milk Marketing  
19 Fund appropriated to the Milk Marketing Board shall be paid out  
20 upon warrant of the State Treasurer drawn after requisition by  
21 the secretary of the Milk Marketing Board.

22 (b) Moneys appropriated by the General Assembly to the Milk  
23 Marketing Fund shall be designated, by official order of the  
24 board, to be paid to producers, dealers or handlers. THE MONEYS <--  
25 TRANSFERRED UNDER THIS SUBSECTION ARE RESTRICTED TO THE USES OF  
26 THE MILK MARKETING FUND SPECIFIED UNDER THIS ACT.

27 Section 4. The act is amended by adding a section to read:

28 Section 1107. Audits.--Moneys paid to producers, dealers or  
29 handlers under section 1104 shall be subject to an audit by the  
30 board or its designee. An audit conducted under this section may

1 be authorized by official order of the board.

2 Section 5. This act shall take effect in 60 days.