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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 1847 Session of  
2021

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INTRODUCED BY SAPPEY, KENYATTA, PASHINSKI, STAMBAUGH, FREEMAN,  
HOWARD, NEILSON AND KIM, SEPTEMBER 9, 2021

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REFERRED TO COMMITTEE ON AGRICULTURE AND RURAL AFFAIRS,  
SEPTEMBER 9, 2021

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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  
30 imprisonment for violations of this act and rules,  
31 regulations and orders of the board; defining perjury;  
32 defining remedies; repealing legislation supplied and  
33 superseded by this act, and saving rights, duties and

1 proceedings thereunder; and making appropriations," further  
2 providing for title of act; in purpose, short title and  
3 definitions, further providing for definitions; in  
4 organization of the board, further providing for appointment  
5 and terms of members and quorum; in licenses of milk dealers,  
6 further providing for grounds for refusal, suspension or  
7 revocation; in moneys and expenses of board, further  
8 providing for expenses and for payment; and, in saving  
9 provisions, repealing provisions relating to Joint Study  
10 Committee.

11 The General Assembly of the Commonwealth of Pennsylvania  
12 hereby enacts as follows:

13 Section 1. The title of the act of April 28, 1937 (P.L.417,  
14 No.105), known as the Milk Marketing Law, is amended to read:

15 AN ACT

16 Relating to milk and the products thereof; creating a Milk  
17 [Marketing] Regulation Board; establishing its jurisdiction,  
18 powers and duties; regulating the production, transportation,  
19 manufacturing, processing, storage, distribution, delivery  
20 and sale of milk and certain products thereof; providing for  
21 the licensing of milk dealers and the payment of fees  
22 therefor; requiring milk dealers to file bonds to secure  
23 payment for milk to producers and certain milk dealers;  
24 authorizing the holding of hearings and the issuance of  
25 subpoenas by the board; conferring jurisdiction upon courts  
26 to punish contempts and to prohibit violations of this act  
27 and of rules, regulations and orders of the board;  
28 authorizing the board to adopt rules, regulations and orders,  
29 and to enter into interstate and Federal compacts; requiring  
30 persons who weigh, measure, sample or test milk to procure  
31 permits or certificates, to take examinations, to pay fees  
32 therefor, to furnish certain notices, records and statements,  
33 and to use certain methods of weighing, measuring, sampling  
34 and testing; authorizing the board to examine the business,  
35 papers and premises of milk dealers and producers, requiring

1 the keeping of records and the filing of reports by milk  
2 dealers, and permitting, with limitations, the use of  
3 information obtained thereby; authorizing the board to fix  
4 prices for milk and certain milk products subject to the  
5 approval of the Governor, and conferring certain powers upon  
6 the Governor with respect thereto; providing for appeals to  
7 the courts from decisions of the board, and for the burden of  
8 proof upon such appeals; prescribing penalties, fines and  
9 imprisonment for violations of this act and rules,  
10 regulations and orders of the board; defining perjury;  
11 defining remedies; repealing legislation supplied and  
12 superseded by this act, and saving rights, duties and  
13 proceedings thereunder; and making appropriations.

14 Section 2. The definitions of "board" and "milk components"  
15 in section 103 of the act are amended to read:

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

20 \* \* \*

21 "Board" means the State agency created by this act, to be  
22 known as the "Milk [Marketing] Regulation Board."

23 \* \* \*

24 "Milk components" means the components of milk, including  
25 butterfat and any other components, for which the prices of  
26 handlers, producers or both are established by marketing  
27 agreements or orders issued under the Agricultural Marketing  
28 Agreement Act of 1937 (7 U.S.C. 601, et seq.) and which the  
29 [Milk Marketing Board] board determines by regulation are  
30 applicable to the marketing areas established under this act.

1 \* \* \*

2 Section 3. Sections 201, 404(14), 1102(a) and (c) and 1104  
3 of the act are amended to read:

4 Section 201. Appointment and Terms of Members; Quorum.--(a)

5 There is hereby created an independent administrative board to  
6 be known as the Milk [Marketing] Regulation Board. The board  
7 shall consist of three members nominated and appointed by the  
8 Governor, by and with the advice and consent of two-thirds of  
9 all the members of the Senate, for terms of six (6) years each,  
10 and until their successors shall have been appointed and  
11 qualified; except that the terms of the members first taking  
12 office shall expire May first, one thousand nine hundred thirty-  
13 nine, May first, one thousand nine hundred forty-one, and May  
14 first, one thousand nine hundred forty-three, respectively, as  
15 designated by the Governor at the time of appointment and until  
16 their successors shall have been appointed and qualified. Of the  
17 members appointed after the effective date of this amending act,  
18 one shall be appointed to represent consumer interests and shall  
19 have the responsibility under the direction of the board for  
20 directing the executive secretary to coordinate and supervise  
21 the Bureau of Consumer Affairs.

22 (b) The Governor shall designate one of the members of the  
23 board as chairman. The chairman shall, when present, preside at  
24 all meetings and price hearings, and in his absence a member  
25 designated by the chairman shall preside. When presiding at a  
26 price hearing, the chairman or acting chairman shall have the  
27 status of agency head for the purpose of conducting the hearing.

28 (c) Two members of the board shall constitute a quorum, and  
29 any action or order of the board shall require the approval of  
30 at least two members.

1       (d) The Governor may remove any board member for  
2 inefficiency, neglect of duty, loss of qualification as provided  
3 in section 202 or misconduct in office: Provided, That he is  
4 given a copy of the charges against him and an opportunity to be  
5 publicly heard in person or by counsel in his own defense upon  
6 not less than ten days' notice, and that the Governor file with  
7 the Department of State a complete statement of all charges made  
8 against such board member, together with a complete record of  
9 the proceedings and his findings thereon.

10       Section 404. Grounds for Refusal, Suspension or  
11 Revocation.--The board shall grant a license to an applicant  
12 complying with the provisions of this act and the rules,  
13 regulations and orders issued by the board pursuant thereto.  
14 Anything in this act to the contrary notwithstanding, a store or  
15 controlled affiliate which satisfies all other requirements for  
16 licensing shall not be denied an appropriate license if it has  
17 been so licensed on the effective date of this amendment. The  
18 board may decline to grant a license to an applicant, or may  
19 suspend or revoke the right of a licensee or former licensee to  
20 apply for a license for a new license period, or may suspend,  
21 revoke or refuse to transfer a license already granted to a milk  
22 dealer or handler, or may prohibit a milk dealer or handler  
23 exempted from the license requirements of this act from  
24 continuing to operate as a milk dealer or handler, after  
25 determination by the board that the dealer or handler:

26       \* \* \*

27       (14) Has demonstrated through the financial information  
28 submitted with his application, a lack of financial  
29 responsibility or a probable inability to meet the financial  
30 responsibilities imposed by this act or by the act of July 6,

1 1984 (P.L.652, No.136), known as the "Milk Producers' Security  
2 Act," and by the regulations of the [Milk Marketing Board]  
3 board.

4 \* \* \*

5 Section 1102. Expenses.--(a) As much of the money in the  
6 Milk Marketing Fund as may be necessary shall be annually  
7 appropriated to the [Milk Marketing Board] board to be used to  
8 pay its expenses, including the following:

9 (1) Salaries of the board and of its employes.

10 (2) Rental and other expenses for offices, rooms, garage  
11 space and other accommodations outside of the Capitol Buildings,  
12 either in or outside of the capital city, occupied by the board.

13 (3) Premiums for [workmen's] workers' compensation insurance  
14 covering the officers and employes of the board.

15 (4) Premiums for surety bonds for such officers or employes  
16 of the board as may be required by law to furnish such bonds.

17 (5) Purchase and operating costs of motor vehicles required  
18 by the board for full-time use, including premiums for liability  
19 insurance covering such motor vehicles and the members of the  
20 board and employes operating them; also the amount payable to  
21 the Department of General Services for the use of automobiles  
22 supplied by it for temporary use by the board.

23 (6) Furniture, stationery, materials, supplies and all other  
24 overhead expenses of the board.

25 (7) All other expenses of every kind and description  
26 necessary for the performance by the board of its work.

27 \* \* \*

28 (c) Before November 1 of each year, the [Milk Marketing  
29 Board] board shall estimate its total expenses for the fiscal  
30 year beginning July 1 of the following year. This estimate shall

1 be submitted to the Governor in accordance with section 610 of  
2 the act of April 9, 1929 (P.L.177, No.175), known as "The  
3 Administrative Code of 1929." At the same time the board submits  
4 its estimate to the Governor, the board shall also submit that  
5 estimate to the General Assembly through the President pro  
6 tempore of the Senate and the Speaker of the House of  
7 Representatives. The board, or its designated representatives,  
8 shall be afforded an opportunity to appear before the Governor  
9 regarding its estimate.

10 Section 1104. Payment.--Moneys in the Milk Marketing Fund  
11 appropriated to the [Milk Marketing Board] board shall be paid  
12 out upon warrant of the State Treasurer drawn after requisition  
13 by the secretary of the [Milk Marketing Board] board.

14 Section 4. Section 1204 of the act is repealed:

15 [Section 1204. Joint Study Committee.--There is hereby  
16 created a Joint Study Committee which shall study the  
17 implementation and effect of resale pricing under this act. The  
18 committee shall be in existence until its report hereunder is  
19 delivered to the General Assembly not later than December 31,  
20 1985. The committee shall consist of the following members:

21 (1) Four producers, one each appointed by the majority  
22 leader and minority leader of each house.

23 (2) Four consumers, one each appointed by the majority and  
24 minority leaders of each house.

25 (3) Four dealers, one each appointed by the majority and  
26 minority leaders of each house.

27 (4) The chairman and the minority chairman of the  
28 Agriculture and Rural Affairs Committees of each house, or their  
29 designee.

30 (5) One at-large member appointed by the Secretary of

1 Agriculture.

2 At the first meeting of the committee which will be called by  
3 the chairman of the Senate Agriculture and Rural Affairs  
4 Committee, the committee shall elect a chairman who, with the  
5 concurrence of a majority of the members of the committee, shall  
6 determine a schedule of meetings for the conduct of committee  
7 business. The chairman thus elected, or another member of the  
8 committee as appointed by the chairman, shall preside at all  
9 meetings of the committee.

10 There is also hereby created an advisory committee to provide  
11 assistance and support for the Joint Study Committee and which  
12 shall consist of:

13 (1) The chairman of the Pennsylvania Milk Marketing Board  
14 and his staff.

15 (2) The Dean of the Pennsylvania State University College of  
16 Agriculture and his staff.

17 (3) The Dean of the Wharton School of Business  
18 Administration of the University of Pennsylvania and his staff.

19 The purpose of the committee shall be to study and report  
20 upon the implementation and effect of the resale milk pricing  
21 provisions of this act. The committee shall submit its final  
22 report to the Agriculture and Rural Affairs Committee of each  
23 house not later than December 1, 1985.]

24 Section 5. A reference in any other act or regulation to the  
25 Milk Marketing Board shall be deemed to be a reference to the  
26 Milk Regulation Board.

27 Section 6. This act shall take effect in 60 days.