

## 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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AS REPORTED FROM COMMITTEE ON AGRICULTURE AND RURAL AFFAIRS,  
HOUSE OF REPRESENTATIVES, AS AMENDED, MARCH 30, 2022

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

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12 supplied and superseded by this act, and saving rights,  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

24 \* \* \*

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

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1 applicable to the marketing areas established under this act.

2 \* \* \*

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

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

6 There is hereby created an independent administrative board to  
7 be known as the PENNSYLVANIA Milk [Marketing] Regulation Board. <--

8 The board shall consist of three members nominated and appointed  
9 by the Governor, by and with the advice and consent of two-

10 thirds of all the members of the Senate, for terms of six (6)

11 years each, and until their successors shall have been appointed

12 and qualified; except that the terms of the members first taking

13 office shall expire May first, one thousand nine hundred thirty-

14 nine, May first, one thousand nine hundred forty-one, and May

15 first, one thousand nine hundred forty-three, respectively, as

16 designated by the Governor at the time of appointment and until

17 their successors shall have been appointed and qualified. Of the

18 members appointed after the effective date of this amending act,

19 one shall be appointed to represent consumer interests and shall

20 have the responsibility under the direction of the board for

21 directing the executive secretary to coordinate and supervise

22 the Bureau of Consumer Affairs.

23 (b) The Governor shall designate one of the members of the

24 board as chairman. The chairman shall, when present, preside at

25 all meetings and price hearings, and in his absence a member

26 designated by the chairman shall preside. When presiding at a

27 price hearing, the chairman or acting chairman shall have the

28 status of agency head for the purpose of conducting the hearing.

29 (c) Two members of the board shall constitute a quorum, and

30 any action or order of the board shall require the approval of

1 at least two members.

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

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

27 \* \* \*

28 (14) Has demonstrated through the financial information  
29 submitted with his application, a lack of financial  
30 responsibility or a probable inability to meet the financial

1 responsibilities imposed by this act or by the act of July 6,  
2 1984 (P.L.652, No.136), known as the "Milk Producers' Security  
3 Act," and by the regulations of the [Milk Marketing Board]  
4 board.

5 \* \* \*

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

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

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

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

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

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

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

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

28 \* \* \*

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

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

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

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

16 [Section 1204. Joint Study Committee.--There is hereby  
17 created a Joint Study Committee which shall study the  
18 implementation and effect of resale pricing under this act. The  
19 committee shall be in existence until its report hereunder is  
20 delivered to the General Assembly not later than December 31,  
21 1985. The committee shall consist of the following members:

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

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

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

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

1 (5) One at-large member appointed by the Secretary of  
2 Agriculture.

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

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

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

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

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

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

25 Section 5. A reference in any other act or regulation to the  
26 Milk Marketing Board shall be deemed to be a reference to the  
27 PENNSYLVANIA Milk ~~Regulation~~ Board. <--

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