

"COMMERCE LAW"

Act of May 10, 1939, P.L. 111, No. 51

Cl. 12

AN ACT

Relating to, and providing for, the promotion and development of business, industry and commerce in the Commonwealth; conferring powers and duties upon the Department of Commerce and other agencies of the Commonwealth; abolishing the Pennsylvania State Publicity Commission, terminating the terms of its members and conferring its powers upon, and transferring and appropriating the balance of its current appropriation to, the Department of Commerce; and repealing certain laws.

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

Section 1. This act shall be known and may be cited as the "Commerce Law."

Section 2. For several years an acute economic emergency has existed in certain parts of this Commonwealth, threatening the health, public safety, welfare and future prosperity of the people. Thousands of our citizens are without employment through no fault of their own, and appropriations required for their assistance are a heavy burden on the Commonwealth and her people. Such economic conditions demand the adoption of a public policy and an administrative program to alleviate these conditions and prevent their recurrence, which can be remedied only as business, industry, and commerce are encouraged, rehabilitated, developed, and expanded, and only as the Commonwealth's communities and regions solve their physical development problems and make themselves attractive, convenient and economical areas in which to live and work. It is necessary that a department be empowered to effectuate such a program. Accordingly, the powers and duties hereinafter enumerated in this act are vested in the Department of Commerce.

(2 amended Dec. 22, 1955, P.L.887, No.270)

Compiler's Note: The Department of Commerce, referred to in this section, was renamed the Department of Community and Economic Development by Act 58 of 1996.

Section 3. The Department of Commerce shall have the power, and its duty shall be:

(1) To investigate, study and undertake ways and means of promoting and encouraging the prosperous development and protecting the legitimate interests and welfare of Pennsylvania business, industry and commerce, within and without the Commonwealth.

(2) To investigate, study and undertake ways and means of expanding markets and promoting and developing new markets for Pennsylvania products.

(3) To promote and encourage the location and development of new business, industries and commerce within the Commonwealth.

(4) To investigate and study conditions affecting Pennsylvania business, industry and commerce, and to collect and disseminate information, and engage in technical studies, scientific investigations and statistical research, and educational activities necessary or useful for the proper execution of its duties in promoting and developing Pennsylvania business, industry and commerce, within and without the Commonwealth.

(5) To cooperate with and assist persons, firms, associations, corporations, cooperative associations and other organizations, and the political subdivisions of the Commonwealth, in the execution of its duties and functions under this act.

(6) To make to the General Assembly, from time to time, recommendations for the remedy or improvement of any conditions, and the elimination of any restrictions and burdens imposed by law, or otherwise existing, which adversely affect or retard the development and expansion of business, industry or commerce.

(7) To initiate, promote and conduct, or cause to be conducted, research designed to further new and more extensive uses and consumption of natural and other resources and their by-products; and, for such purposes, to enter into contracts and agreements with research laboratories maintained by educational or endowed institutions in this Commonwealth, and to expend appropriations made to the department for such purposes.

(8) To investigate and study conditions of unemployment, and to recommend specific remedies for the alleviation of such conditions, and aid in restoring employment in communities affected thereby, in order that the burden of public relief may be lessened.

(9) To aid and promote the elimination of unfair competition and trade practices tending to impair price stability and which are harmful to the financial soundness of business, industry and commerce, and to the wages and working conditions of employees.

(10) To encourage and develop commerce with other states and foreign countries, and to devise ways and means of removing trade barriers hampering the free flow of commerce between this and other states.

(11) To cooperate with interstate commissions engaged in formulating and promoting the adoption of interstate compacts and agreements helpful to business, industry and commerce.

(12) (a) To promulgate a "Production Control" plan or plans, or amendments thereof, upon written petition, and with the approval of Pennsylvania producers of seventy-five per centum of the Pennsylvania output of any United States mineral resource industry located preponderantly within the Commonwealth, or to adopt and promulgate any such plan or plans in operation at the time of the enactment of this act with the sanction of Pennsylvania producers of seventy-five per centum of the Pennsylvania output of such industry, and to administer or secure the cooperation of others, including State officers, producers' representatives or employees' representatives in any industry where there are general collective bargaining arrangements, in administering such plan or plans or amendments thereof upon a voluntary basis: Provided, however, That no

production control plan or rules or regulations relating thereto shall apply to producers who are not petitioning producers or who do not otherwise assent to the production control plan promulgated and adopted.

(b) A "Production Control" within the meaning of this act is any system of regulated production in any industry as above defined which currently controls the daily, weekly or monthly volume of allowable production of said industry in Pennsylvania for the purpose of adequately supplying market demand, avoiding waste of mineral resources or the exploitation thereof without adequate return to the Commonwealth, her political subdivisions and people, protecting capital invested therein from unwise depletion and dissipation, promoting employment and security for the payment of wages and benefits to those employed in such industry and achieving other express purposes of the Commerce Law (1) by allocating or apportioning to each producer in the industry a fair and equitable distributive portion of the total allowable production; (2) by providing for the adjustment of inequities in assigned distributive portions and for fair and equitable adjustments of distributive portions whenever transfers of mineral properties or facilities take place between or among producers based upon the position in the industry fairly and equitably attributable to such properties or facilities; (3) by providing for the admission under such plan of new operations and for the assignment of a fair and equitable distributive portion of the total allowable production to such operations; (4) by providing, where applicable, for the establishment of fair and equitable standards of preparation to ensure purity and proper sizing and grading of the product in order to protect consumers and to prevent unfair trade practices; (5) and also by establishing and providing for reasonable rules and regulations to effectuate such control plan.

(c) The department or any other agency administering any production control plan may inspect the production of any producer under such plan, and of such other producers as may desire such inspection, to determine whether any standards of purity, sizing and grading established under any plan are being complied with.

(d) The department on its own initiative, or at the request of any agency administering a production control plan, and in such case at the expense of such agency, may, through its own staff, or through a recognized accounting agency, gather and compile composite statistics of volume, value and geographical distribution of sales, both within and outside the Commonwealth; realization on sales, production costs, employment and wages relating to any industry functioning under a production control plan, and such other statistics as may be deemed appropriate by any such administering agency. Such statistics shall be available for inspection only in composite form. Any other department of the Commonwealth collecting any of such statistics shall make them available to the department.

(e) The department or agency administering any such production control plan, including the Production Control Plan for the Anthracite Industry heretofore promulgated and now

functioning under the provisions of this act, shall make a report to each regular session of the General Assembly, showing, inter alia, the percentage of the output of the industry under such plan and the experience of the industry thereunder, and shall include therein any recommendations such agency may have with respect to further legislation which will be helpful in carrying out the purposes of this act.

(f) No production control plan promulgated by the department under the authority of this act shall be continued, whenever the department, if it administers the plan, or the officers of the State, or a majority of such officers administering or assisting in the administration of any such plan, shall report to the Governor, and the Governor shall find that such plan no longer accomplishes the purposes of this act or nor longer is in the public interest.

((12) amended May 5, 1945, P.L.432, No.176)

(13) To provide planning assistance and to do planning work, including surveys, land use studies, urban renewal plans, technical services and other elements of comprehensive planning programs, in and for any counties, cities, boroughs, townships, towns or regions and, for this purpose, to accept and utilize any funds, personnel or other assistance made available by the Federal government or any of its agencies, or made available from any other source, public or private, and, notwithstanding the provisions of any other law and for the purposes of receiving and using Federal planning grants for provision of urban planning assistance, to serve as the official State planning agency of the Commonwealth and, to these ends, to enter into agreements or contracts regarding the acceptance or utilization of such funds or assistance for any of the purposes authorized by this act. ((13) added Dec. 22, 1955, P.L.887, No.270 and Functions transferred, July 11, 1966, Sp. Sess., Reorg. Pl. No.2, P.L.8)

(3 amended July 7, 1941, P.L.275, No.125)

Compiler's Note: The Department of Commerce, referred to in this section, was renamed the Department of Community and Economic Development by Act 58 of 1996.

Section 4. The Department of Commerce, in order to promote and develop business, industry and commerce in the Commonwealth, shall have the power, and its duty shall be, to plan and conduct a program of information, advertising and publicity relating to the business, industrial, commercial, agricultural, educational, recreational, scenic, historic, highway and residential facilities, advantages and attractions of the Commonwealth, including any political subdivisions thereof, which may include newspaper, magazine, outdoor and radio advertising, both within and without the limits of the Commonwealth. The department shall encourage and, so far as it is practicable to do so, coordinate the activities of persons, firms, associations, corporations and other organizations engaged in publicizing and promoting such facilities, advantages and attractions of the Commonwealth, or any political subdivision thereof.

Compiler's Note: The Department of Commerce, referred to in

this section, was renamed the Department of Community and Economic Development by Act 58 of 1996.

Section 5. The Department of Commerce, in order to promote and develop business, industry and commerce, shall have the power, either acting alone or in cooperation with other administrative departments, boards and commissions of the Commonwealth, to advertise the facilities, advantages and attractions of the Commonwealth, referred to in the preceding section, at fairs, expositions and other celebrations within and without the Commonwealth, and, for such purposes, shall have power to obtain space, land or buildings, by lease or otherwise, including the erection and construction of booths, exhibits and buildings, through the Department of Property and Supplies.

Compiler's Note: The Department of Commerce, referred to in this section, was renamed the Department of Community and Economic Development by Act 58 of 1996.

Section 6. Except as otherwise provided in this act, the provisions of this act shall not be deemed to repeal or impair any law now in effect, and shall not curtail the powers and functions of any administrative department, board or commission of the Commonwealth. The several administrative departments, boards and commissions, in conjunction with the Department of Commerce, shall devise a practical and working basis for cooperation and coordination of their powers and duties, to the extent that such powers and duties have any bearing on the powers and duties of the Department of Commerce, in order that there will be no duplicating and overlapping of such powers and duties. It shall be the duty of every administrative department, board or commission to cooperate with the Department of Commerce to the extent that the work of the Department of Commerce may require such cooperation.

Compiler's Note: The Department of Commerce, referred to in this section, was renamed the Department of Community and Economic Development by Act 58 of 1996.

Section 7. (a) The Pennsylvania State Publicity Commission is hereby abolished, as of the effective date of this act, and the terms of the members of such commission now holding office, and the employment of all officers and employees of the commission, shall expire and terminate upon that date.

(b) All books, papers, maps, charts, plans, literature and other records, and all equipment in the possession of the Pennsylvania State Publicity Commission upon the effective date of this act, or of any member of the commission or any officer or employee of the commission, shall be delivered or turned over to the Department of Commerce.

(c) All existing contracts and obligations of the Pennsylvania State Publicity Commission shall remain in full force and effect and shall be performed by the Department of Commerce.

(d) The unexpended balance existing on the effective date of this act in any appropriation made to the Pennsylvania State Publicity Commission is hereby transferred and appropriated to the Department of Commerce, for the biennial period ending the

thirty-first day of May, one thousand nine hundred thirty-nine, for the purpose of carrying out the powers and duties of the Pennsylvania State Publicity Commission transferred to the Department of Commerce by this act, and for the payment of any bills or encumbrances incurred by the Pennsylvania State Publicity Commission prior to, and remaining unpaid on, the effective date of this act.

Compiler's Note: The Department of Commerce, referred to in this section, was renamed the Department of Community and Economic Development by Act 58 of 1996.

Section 7.1. (7.1 repealed July 7, 1989, P.L.241, No.42)

Section 8. The act, approved the nineteenth day of July, one thousand nine hundred thirty-five (Pamphlet Laws, one thousand three hundred forty-eight), entitled "An act creating a commission to compile, edit, publish, and distribute pamphlets descriptive of scenic and historic interest; and making an appropriation," and the act amendatory thereto, approved the twentieth day of May, one thousand nine hundred thirty-seven (Pamphlet Laws, seven hundred thirty-seven), are hereby repealed.

Section 9. This act shall become effective immediately upon its final enactment.