

PENNSYLVANIA AGRICULTURAL SURPLUS SYSTEM ACT - ENACTMENT

Act of Nov. 23, 2010, P.L. 1134, No. 113

Cl. 03

AN ACT

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

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

Section 1. Short title.

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

Section 2. Declaration of policy.

The General Assembly finds and declares as follows:

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

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

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

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

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

(6) This network of charitable food organizations has demonstrated the capacity to administer food distribution in collaboration with the Department of Agriculture as evidenced by the success of the Commodity Supplemental Food Program and the PASS pilot program.

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

Section 3. Definitions.

The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:

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

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

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

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

Section 4. PASS.

(a) Authorization.--The department shall develop and operate PASS as a system for this Commonwealth's food industry to donate, sell or otherwise provide food products to the charitable food organizations in existence within this Commonwealth. The department may contract with a private charitable food assistance network operating within this Commonwealth to carry out the provisions of this act.

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

(1) Identification of sources of food products available for distribution to charitable food organizations in this Commonwealth, including a list of farmers who have agreed to supply food products from farms located in this Commonwealth.

(2) Determination of cost-effective mechanisms for transportation of food products.

(3) Incentives for growers, packers, processors and other entities in the food industry located in this Commonwealth to donate, sell or otherwise provide food products, including reimbursement for services provided.

(4) Distribution of food products to needy or low-income individuals and families. Food products shall be distributed in accordance with the formula used in the administration of the State Food Purchase Program. The department shall maintain a list of charitable food organizations eligible for participation in the distribution of food products.

(5) An annual report delivered to the chairman and minority chairman of the Agriculture and Rural Affairs Committee of the Senate and the chairman and minority chairman of the Agriculture and Rural Affairs Committee of the House of Representatives providing detailed information on the sources, types and pounds of food, the distribution of food products and the number of households served by the distributions.

Section 5. Administration and contracting.

Funds appropriated for PASS may be used for administrative purposes, including contracting with an organization to carry out the provisions of this act; provided, however, that not more than 15% may be used for administrative purposes.

Section 6. Regulations.

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

(b) Preemption.--The provisions of this act, section 5.1 of the act of July 10, 1981 (P.L.234, No.76), known as the Donated Food Limited Liability Act, and the regulations promulgated

under that act and this act shall supersede and preempt any law, ordinance, rule or regulation requiring a postmortem inspection by a licensed veterinarian or veterinarian's designee of wildlife donated, distributed and used as food.

Section 7. Funding.

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

Section 8. Effective date.

This act shall take effect in 60 days.