

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 739

Session of  
1971

INTRODUCED BY STAPLETON, STAUFFER, OESTERLING AND NOLAN,  
MAY 24, 1971

REFERRED TO AGRICULTURE, MAY 24, 1971

AN ACT

1 Amending the act of September 20, 1961 (P.L.1541), entitled, as  
2 amended, "An act providing for the issuing, administration,  
3 enforcement and termination of marketing programs on  
4 agricultural commodities; imposing powers and duties on the  
5 Secretary of Agriculture; providing for the creation and  
6 operation of advisory boards; prescribing the content of  
7 programs; and providing for the imposition and collection of  
8 fees," providing for representative voting by cooperatives,  
9 changing voting requirements and revising the requirements  
10 for calling special referendums.

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

13 Section 1. Section 2, act of September 20, 1961 (P.L.1541),  
14 known as the "Pennsylvania Agricultural Commodities Marketing  
15 Act of 1968," reenacted and amended July 16, 1968 (Act No. 179),  
16 is amended by adding two clauses to read:

17 Section 2. Definitions.--When used in this act, the  
18 following words and phrases shall have the following meanings,  
19 unless the context indicates otherwise:

20 \* \* \*

21 (7) "Cooperative association" means any cooperative  
22 marketing association of producers which the secretary

1 determines, after application by the association (i) to be  
2 qualified under the provisions of the Federal Act of February  
3 18, 1922, known as the "Capper-Volstead Act"; and organized as a  
4 cooperative agricultural association under the laws of this  
5 State, and any other state, and (ii) to have full authority in  
6 the sale of affected agricultural commodity of its members and  
7 to be engaged in making collective sales of or marketing such  
8 commodity or its products for its members.

9 (8) "Sales agent" means any person, including individuals,  
10 partnerships, corporations, cooperative associations, and  
11 unincorporated cooperative associations who purchases or handles  
12 or receives, or sells or contracts to sell an affected  
13 agricultural commodity.

14 Section 2. Subsection (a) of section 4 of the act, reenacted  
15 and amended July 16, 1968 (Act No. 179), is amended to read:

16 Section 4. Advisory Board.--(a) Any marketing program,  
17 issued pursuant to this act, shall provide for the establishment  
18 of an advisory board to advise and assist the secretary in the  
19 administration of the marketing programs. The members of the  
20 board shall be appointed by the secretary from nominations  
21 submitted by producers of such agricultural commodities as the  
22 order will affect, and shall hold office until the expiration of  
23 the term established in the program, or until such appointment  
24 or term is terminated by majority action of the board. The  
25 number of members of any such board and their term of office  
26 shall be set forth in the marketing program, and shall be of  
27 such number as is necessary to properly administer such program,  
28 but shall be a minimum of five.

29 \* \* \*

30 Section 3. Section 5 of the act is amended by adding a

1 clause to read:

2 Section 5. Provisions of Marketing Programs.--Subject to the  
3 legislative restrictions and limitations set forth in this act,  
4 any marketing program issued by the secretary pursuant to this  
5 act may contain any or all of the following provisions:

6 \* \* \*

7 (5) Provision may be made in the program to exempt, or allow  
8 suitable adjustments or credits, in connection with an  
9 agricultural commodity on which a mandatory checkoff for market  
10 development is required under the authority of any Federal law.

11 Section 4. Sections 6 and 7 of the act reenacted and amended  
12 July 16, 1968 (Act No. 179), are amended to read:

13 Section 6. Effecting Marketing Programs.--(a) No marketing  
14 program, or amendment thereto, shall become effective unless and  
15 until the secretary determines by a referendum whether or not  
16 the affected producers assent to the proposed action.

17 (b) The secretary shall conduct the referendum among the  
18 affected producers and the affected producers shall be deemed to  
19 have assented to the proposed program if, of those [replying,  
20 not less than sixty-six and two thirds per centum by number and  
21 not less than fifty per centum] voting a majority by number and  
22 a majority by volume assent to the proposed program.

23 (c) In determining whether a marketing program or amendment  
24 thereto have been approved by producers, the secretary shall  
25 consider the vote of a cooperative association as the votes of  
26 such members, providing the cooperative has first notified its  
27 members, in writing, at least thirty days in advance, of its  
28 intention to cast a representative vote. Such notice shall  
29 inform the producer of his right to cast his vote individually.  
30 Each producer shall receive a ballot from the secretary. If the

1 producer votes individually, his vote shall be deducted from his  
2 cooperative representative vote.

3 (d) Any referendum required under this act shall be  
4 conducted in accordance with reasonable rules and regulations to  
5 be established and promulgated by the secretary.

6 Section 7. Terminating Marketing Programs.--The secretary  
7 shall suspend or terminate any marketing program or any  
8 provisions of any marketing program whenever he finds that such  
9 provisions or program does not tend to effectuate this act  
10 within the standards and subject to the limitations and  
11 restrictions imposed in this act: Provided, That such suspension  
12 or termination shall not be effective until the expiration of  
13 the current marketing season. If the secretary finds that the  
14 termination of any marketing program is requested, in writing,  
15 by more than thirty-three and one third per centum of the  
16 affected producers who produce for market more than fifty per  
17 centum of the volume of agricultural commodities produced within  
18 the designated production area for market, the secretary shall  
19 terminate or suspend for a specified period such marketing  
20 program or provisions thereof: Provided, That such termination  
21 shall be effective only if announced on or before such date as  
22 may be specified in such program. If ten per centum of the  
23 producers [who participated in the referendum effecting a  
24 marketing program] in a commodity group of over two thousand  
25 affected producers or fifteen per centum of the producers in a  
26 commodity group of less than two thousand affected producers  
27 request, in writing, that a referendum be held on the question  
28 of terminating the program, the secretary must announce and  
29 conduct such a referendum within a reasonable period of time,  
30 and in any case, within one year of the request, a marketing

1 program shall be terminated if so voted by a majority of those  
2 voting.

3 Section 5. Section 8 of the act amended March 9, 1970 (Act  
4 No. 63), is amended to read:

5 Section 8. Marketing Program Review; Amendments.--(a) Every  
6 [three] five years the Secretary of Agriculture shall call a  
7 referendum of affected producers within each agricultural  
8 commodity group for which a marketing program exists to  
9 determine whether or not two-thirds of those voting still desire  
10 a marketing program.

11 (b) The secretary may call for a referendum on amendments to  
12 a marketing program within a reasonable period of time, upon the  
13 request of the advisory board or with written request of ten per  
14 centum of the producers in a commodity group of over two  
15 thousand affected producers of fifteen per centum of the  
16 producers in a commodity group of less than two thousand  
17 affected producers. In voting on an amendment to the marketing  
18 program, the vote shall be only on the amendment, and shall not  
19 terminate the program.

20 Section 6. Section 11 of the act reenacted and amended July  
21 16, 1968 (Act No. 179), is amended to read:

22 Section 11. Rules and Regulations for Enforcement.--The  
23 secretary may, with the advice of the advisory board, make and  
24 promulgate such rules and regulations as may be necessary to  
25 effectuate this act and to enforce the provisions of any  
26 marketing program, all of which shall have the force and effect  
27 of law. The secretary may institute such action at law or in  
28 equity and may establish penalties as may appear necessary to  
29 enforce compliance with this act, or any rule or regulation, or  
30 marketing program committed to his administration in addition to

1 any other remedy under this act.