

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL
No. 1042 Session of
1985

INTRODUCED BY MORRIS, SIRIANNI, COLE AND WASS, APRIL 24, 1985

SENATOR HELFRICK, AGRICULTURE AND RURAL AFFAIRS, IN SENATE,
AS AMENDED, JUNE 17, 1985

AN ACT

1 ~~Creating and empowering the Agricultural Product Development~~ <—
2 ~~Council; and making an appropriation.~~
3 AMENDING THE ACT OF DECEMBER 5, 1936 (2ND SP.SESS., 1937 <—
4 P.L.2897, NO.1), ENTITLED "AN ACT ESTABLISHING A SYSTEM OF
5 UNEMPLOYMENT COMPENSATION TO BE ADMINISTERED BY THE
6 DEPARTMENT OF LABOR AND INDUSTRY AND ITS EXISTING AND NEWLY
7 CREATED AGENCIES WITH PERSONNEL (WITH CERTAIN EXCEPTIONS)
8 SELECTED ON A CIVIL SERVICE BASIS; REQUIRING EMPLOYERS TO
9 KEEP RECORDS AND MAKE REPORTS, AND CERTAIN EMPLOYERS TO PAY
10 CONTRIBUTIONS BASED ON PAYROLLS TO PROVIDE MONEYS FOR THE
11 PAYMENT OF COMPENSATION TO CERTAIN UNEMPLOYED PERSONS;
12 PROVIDING PROCEDURE AND ADMINISTRATIVE DETAILS FOR THE
13 DETERMINATION, PAYMENT AND COLLECTION OF SUCH CONTRIBUTIONS
14 AND THE PAYMENT OF SUCH COMPENSATION; PROVIDING FOR
15 COOPERATION WITH THE FEDERAL GOVERNMENT AND ITS AGENCIES;
16 CREATING CERTAIN SPECIAL FUNDS IN THE CUSTODY OF THE STATE
17 TREASURER; AND PRESCRIBING PENALTIES," PROVIDING FOR BENEFITS
18 FOR CERTAIN SEASONAL WORKERS.

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

21 ~~Section 1. Short title.~~ <—

22 ~~This act shall be known and may be cited as the Agricultural~~
23 ~~Product Development Council Act.~~

24 ~~Section 2. Legislative intent.~~

~~It is the intent and expectation of the General Assembly, through this act, to increase the impact of agriculture by establishing a council which represents government, agriculture and public consumers. The council will be empowered to receive public and private funds for the express purpose of enhancing Pennsylvania agriculture and its products by expanding existing agribusiness, by promoting food products which are grown or processed in Pennsylvania and by promoting the image of Pennsylvania as an agricultural State.~~

~~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:~~

~~"Agribusiness." A business directly related to farming or to the manufacture, sale or distribution of farm products or equipment.~~

~~"Council." The Agricultural Product Development Council.~~

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

~~"Lobbying." Attempting to influence the introduction or passage of legislation by a legislative body of government.~~

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

~~Section 4.— Creation.~~

~~There is hereby created within the department a council which shall be known as the Agricultural Product Development Council.~~

~~Section 5.— Membership and meetings.~~

~~(a) General membership. The council shall consist of 15 members.~~

~~(b) Designated members; chairman. Five members shall be the~~

~~secretary, who shall also serve as chairman; the chairman and minority chairman of the Agriculture and Rural Affairs Committee in the House of Representatives; and the chairman and minority chairman of the Agriculture and Rural Affairs Committee in the Senate.~~

~~(c) Appointed members. The remaining ten members shall be appointed by the secretary, seven of the members to be selected from a list of persons suggested by Statewide farm organizations, commodity groups and food processors. The members shall be appointed for nonconsecutive three year terms, four of the initial ten members to serve for one year, three to serve for two years and three to serve for three years.~~

~~(d) Meetings. The council shall meet at least quarterly. Additional meetings may be called by the chairman at his discretion or at the written request of a majority of the members of the council.~~

~~(e) Quorum. A quorum of eight members of the council must be present for voting.~~

~~Section 6. Powers, duties and restrictions.~~

~~(a) Powers and duties. The council is hereby empowered and it shall have the duty to:~~

~~(1) Form subcommittees to develop programs to promote Pennsylvania agriculture.~~

~~(2) Authorize expenditures of moneys to conduct research and promotional activities.~~

~~(3) Receive funds from Federal, State and private sources, to deposit the funds which are received in an interest bearing revenue account and to authorize expenditures from this fund for agricultural research and promotion to benefit Pennsylvania agriculture.~~

~~(4) Make and enter contracts, if the department has been a party to the negotiation of the specific contract and if the secretary, acting in his capacity as secretary and not as chairman, approves the specific contract.~~

~~(5) Conduct marketing research and develop programs to promote Pennsylvania agriculture.~~

~~(b) Restrictions. The council is expressly prohibited from lobbying.~~

~~Section 7. Appropriation.~~

~~The sum of \$100,000 is hereby appropriated to the Agricultural Product Development Council to carry out the purposes of this act.~~

~~Section 8. Expiration.~~

~~This act shall expire December 31, 1990.~~

~~Section 9. Effective date.~~

~~This act shall take effect immediately.~~

SECTION 1. THE ACT OF DECEMBER 5, 1936 (2ND SP.SESS., 1937 P.L.2897, NO.1), KNOWN AS THE UNEMPLOYMENT COMPENSATION LAW, IS AMENDED BY ADDING A SECTION TO READ:

SECTION 402.5. ELIGIBILITY OF SEASONAL WORKERS.--(A)
NOTWITHSTANDING ANY OTHER PROVISION OF THIS ACT WITH RESPECT TO
SERVICE PERFORMED IN A SEASONAL OPERATION OR SEASONAL INDUSTRY,
BENEFITS SHALL NOT BE PAID TO A SEASONAL WORKER, BASED ON SUCH
SERVICES, FOR ANY WEEK OF UNEMPLOYMENT OCCURRING OUTSIDE OF THE
NORMAL SEASONAL PERIOD OF OPERATION, PROVIDED THERE IS A
CONTRACT OR REASONABLE ASSURANCE THAT SUCH SEASONAL WORKER WILL
PERFORM SERVICES IN THAT SEASONAL INDUSTRY IN HIS NEXT NORMAL
SEASONAL PERIOD. HOWEVER, IF UPON PRESENTING HIMSELF FOR WORK IN
HIS NEXT NORMAL SEASONAL PERIOD, THE INDIVIDUAL IS NOT OFFERED
AN OPPORTUNITY TO PERFORM SUCH SERVICES, HIS CLAIMS FOR

1 UNEMPLOYMENT COMPENSATION SHALL BE ACCEPTED RETROACTIVELY TO THE
2 TIME THE INDIVIDUAL'S BENEFITS (BASED ON SEASONAL AND NON-
3 SEASONAL WAGES) WOULD HAVE COMMENCED BUT FOR THIS SUBSECTION.

4 (B) UPON WRITTEN APPLICATION FILED WITH THE DEPARTMENT BY AN
5 EMPLOYER, THE SECRETARY SHALL DETERMINE, AND MAY THEREAFTER
6 REDETERMINE, IN ACCORDANCE WITH THE RULES AND REGULATIONS OF THE
7 DEPARTMENT, THE NORMAL SEASONAL PERIOD DURING WHICH WORKERS ARE
8 ORDINARILY EMPLOYED FOR THE PURPOSE OF CARRYING ON SEASONAL
9 OPERATIONS IN THE SEASONAL INDUSTRY IN WHICH SUCH EMPLOYER IS
10 ENGAGED. AN APPLICATION FOR SUCH DETERMINATION SHALL BE MADE ON
11 FORMS PRESCRIBED BY THE DEPARTMENT. SUCH APPLICATION MUST BE
12 MADE AT LEAST TWENTY (20) DAYS PRIOR TO THE ESTIMATED BEGINNING
13 DATE OF THE NORMAL SEASONAL PERIOD FOR WHICH THE DETERMINATION
14 IS REQUESTED. SIMULTANEOUSLY WITH THE FILING OF THE APPLICATION,
15 THE EMPLOYER SHALL CONSPICUOUSLY DISPLAY ON THE EMPLOYER'S
16 PREMISES IN A SUFFICIENT NUMBER OF PLACES A COPY OF THE
17 APPLICATION.

18 (C) AN EMPLOYER DETERMINED, IN ACCORDANCE WITH THE
19 PROVISIONS OF THIS SECTION, TO BE A SEASONAL INDUSTRY OR A
20 SEASONAL OPERATION SHALL BE REQUIRED TO CONSPICUOUSLY DISPLAY
21 NOTICES OF THE SEASONAL DETERMINATION ON ITS PREMISES IN A
22 SUFFICIENT NUMBER OF PLACES AS WILL FAIRLY ADVISE ITS EMPLOYEES
23 OF THE ESTIMATED BEGINNING AND ESTIMATED ENDING DATES OF ITS
24 NORMAL SEASONAL PERIOD. SUCH NOTICES SHALL BE PROVIDED BY THE
25 DEPARTMENT.

26 (D) ANY SUCCESSOR OF A SEASONAL EMPLOYER SHALL BE DEEMED TO
27 BE A SEASONAL INDUSTRY OR A SEASONAL OPERATION UNLESS SUCH
28 SUCCESSOR SHALL, WITHIN ONE HUNDRED TWENTY (120) DAYS AFTER THE
29 ACQUISITION, REQUEST CANCELLATION OF SUCH DETERMINATION.

30 (E) ANY DETERMINATION ISSUED UNDER THE PROVISIONS OF THIS

SECTION SHALL BE SUBJECT TO REVIEW IN THE SAME MANNER AND TO THE
SAME EXTENT AS ALL OTHER DETERMINATIONS ISSUED UNDER THIS ACT.

(F) BENEFITS PAYABLE TO ANY OTHERWISE ELIGIBLE INDIVIDUAL
WHO IS DETERMINED TO BE A SEASONAL WORKER SHALL BE CALCULATED IN
ACCORDANCE WITH THE PROVISIONS OF THIS SECTION FOR ANY BENEFIT
YEAR WHICH IS ESTABLISHED ON OR AFTER THE BEGINNING DATE OF A
DETERMINATION OF A SEASONAL INDUSTRY OR A SEASONAL OPERATION BY
WHICH SUCH INDIVIDUAL WAS EMPLOYED DURING THE BASE YEAR
APPLICABLE TO SUCH BENEFIT YEAR, AS IF SUCH DETERMINATION HAD
BEEN EFFECTIVE IN SUCH BASE PERIOD.

(G) IN NO CASE SHALL A SEASONAL WORKER BE ELIGIBLE TO
RECEIVE A TOTAL AMOUNT OF COMPENSATION IN A BENEFIT YEAR IN
EXCESS OF THE MAXIMUM COMPENSATION PAYABLE FOR SUCH BENEFIT
YEAR, AS PROVIDED IN SECTION 404 OF THIS ACT.

(H) FOR THE PURPOSES OF THIS SECTION, THE FOLLOWING
DEFINITIONS SHALL APPLY:

(1) "FOOD PROCESSING OPERATION" MEANS THOSE SERVICES
PERFORMED IN CONNECTION WITH COMMERCIAL CANNING OR COMMERCIAL
FREEZING.

(2) "NORMAL SEASONAL PERIOD" MEANS THE NORMAL SEASONAL
PERIOD, AS DETERMINED IN ACCORDANCE WITH SUBSECTION (B) OF THIS
SECTION, DURING WHICH WORKERS ARE ORDINARILY EMPLOYED FOR THE
PURPOSE OF CARRYING ON SEASONAL OPERATIONS IN EACH SEASONAL
INDUSTRY.

(3) "SEASONAL INDUSTRY" MEANS AN INDUSTRY, ESTABLISHMENT OR
PROCESS WITHIN AN INDUSTRY WHICH, BECAUSE OF CLIMATIC CONDITIONS
MAKING IT IMPRACTICAL OR IMPOSSIBLE TO DO OTHERWISE, CUSTOMARILY
CARRIES ON FRUIT OR VEGETABLE FOOD PROCESSING OPERATIONS, OR
BOTH, ONLY DURING A REGULARLY RECURRING PERIOD OF ONE HUNDRED
EIGHTY (180) DAYS OF WORK OR LESS IN A CALENDAR YEAR.

1 (4) "SEASONAL OPERATION" MEANS AN OPERATION IN WHICH IT IS
2 CUSTOMARY FOR AN EMPLOYER ENGAGED IN A SEASONAL INDUSTRY AS
3 DEFINED IN THIS SECTION, TO OPERATE ALL OR A PORTION OF ITS
4 BUSINESS DURING A REGULARLY RECURRING PERIOD OF ONE HUNDRED
5 EIGHTY (180) DAYS OF WORK OR LESS FOR A NORMAL SEASONAL PERIOD
6 DURING A CALENDAR YEAR. AN EMPLOYER MAY BE DETERMINED TO BE
7 ENGAGED IN A SEASONAL INDUSTRY AS DEFINED IN THIS SECTION, WITH
8 RESPECT TO A PORTION OF ITS BUSINESS, ONLY IF THAT PORTION,
9 UNDER THE USUAL AND CUSTOMARY PRACTICE IN THE INDUSTRY, IS
10 IDENTIFIABLE AS A FUNCTIONALLY DISTINCT OPERATION.

11 (5) "SEASONAL WORKER" MEANS A WORKER WHO PERFORMS SERVICES
12 FOR A SEASONAL OPERATION AS DEFINED IN THIS SECTION, FOR LESS
13 THAN ONE HUNDRED EIGHTY (180) DAYS OF WORK.

14 SECTION 2. THIS ACT SHALL APPLY TO BENEFIT YEARS BEGINNING
15 ON AND AFTER JUNE 30, 1985.

16 SECTION 3. THIS ACT SHALL TAKE EFFECT IMMEDIATELY.