

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 188

Session of  
1987

INTRODUCED BY SCHEETZ, MORRIS, KUKOVICH, FOSTER, ROBBINS,  
CLYMER, SCHULER, DORR, HALUSKA, HERMAN, BELFANTI, GEIST,  
D. W. SNYDER, WOGAN, BUNT, JACKSON, BATTISTO, J. TAYLOR,  
HERSHEY, BARLEY, MERRY, CARLSON, FARGO, LANGTRY, BOWSER,  
JOHNSON, CHADWICK, DISTLER, HONAMAN, MOEHLMANN, FISCHER,  
SIRIANNI, E. Z. TAYLOR, BURD, TRUMAN, WOZNIAK, NOYE, PETRONE  
AND ITKIN, FEBRUARY 3, 1987

SENATOR HELFRICK, AGRICULTURE AND RURAL AFFAIRS, IN SENATE,  
AS AMENDED, JUNE 20, 1988

AN ACT

1 Amending the act of April 9, 1929 (P.L.177, No.175), entitled  
2 "An act providing for and reorganizing the conduct of the  
3 executive and administrative work of the Commonwealth by the  
4 Executive Department thereof and the administrative  
5 departments, boards, commissions, and officers thereof,  
6 including the boards of trustees of State Normal Schools, or  
7 Teachers Colleges; abolishing, creating, reorganizing or  
8 authorizing the reorganization of certain administrative  
9 departments, boards, and commissions; defining the powers and  
10 duties of the Governor and other executive and administrative  
11 officers, and of the several administrative departments,  
12 boards, commissions, and officers; fixing the salaries of the  
13 Governor, Lieutenant Governor, and certain other executive  
14 and administrative officers; providing for the appointment of  
15 certain administrative officers, and of all deputies and  
16 other assistants and employes in certain departments, boards,  
17 and commissions; and prescribing the manner in which the  
18 number and compensation of the deputies and all other  
19 assistants and employes of certain departments, boards and  
20 commissions shall be determined," further providing for  
21 powers and duties of the Department of Agriculture RELATIVE  
22 TO THE MANUFACTURE AND USE OF ETHYL ALCOHOL AND THE  
23 TRANSPORTATION OF POULTRY; and making a repeal.

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

1       Section 1. The act of April 9, 1929 (P.L.177, No.175), known  
2 as The Administrative Code of 1929, is amended by adding a <—  
3 ~~section~~ SECTIONS to read: <—

4       Section 1712. On-Farm Produced Denatured Ethyl Alcohol.--The  
5 Department of Agriculture shall have the power, and its duty  
6 shall be:

7       (a) To encourage and promote the manufacture and use of  
8 Pennsylvania agricultural product-derived denatured ethyl  
9 alcohol;

10       (b) To regulate the manufacture, use and sale of on-farm  
11 produced denatured ethyl alcohol;

12       (c) To establish a licensing system for denatured ethyl  
13 alcohol on-farm producers and to enforce such system so as to  
14 prevent fraud and deception in the licensing process;

15       (d) To collect a fee from denatured ethyl alcohol on-farm  
16 producers at a minimum of twenty-five dollars (\$25), with a  
17 sliding scale fee schedule based upon volume produced;

18       (e) To make such rules and regulations as shall be deemed  
19 necessary for enforcement of the laws of this Commonwealth  
20 relating to denatured ethyl alcohol and denatured ethyl alcohol  
21 on-farm producers;

22       (f) To provide for the inspection of denatured ethyl alcohol  
23 on-farm production facilities in order to ensure compliance with  
24 the law;

25       (g) To gather and make available information concerning the  
26 supply, demand, prevailing prices and applicable use of  
27 denatured ethyl alcohol and its by-products;

28       (h) To secure, in the performance of the duties herein  
29 prescribed, the cooperation and assistance of other appropriate  
30 agencies.

1        SECTION 1713.    LICENSING OF POULTRY DEALERS AND

2   TRANSPORTERS.--(A)    AFTER DECEMBER 31 OF THE YEAR IN WHICH THIS  
3   SECTION TAKES EFFECT, IT SHALL BE UNLAWFUL FOR ANY PERSON,  
4   WHETHER OR NOT CONTRACTED BY ANOTHER PARTY, INCLUDING, BUT NOT  
5   LIMITED TO, THE OWNERS OR LESSEES OF EACH CONVEYANCE, TO ENGAGE  
6   IN THE BUSINESS OF TRANSPORTATION OF POULTRY INTO, WITHIN OR  
7   FROM THIS COMMONWEALTH, UNLESS HE SHALL HOLD A LICENSE ISSUED BY  
8   THE DEPARTMENT FOR EACH CONVEYANCE AS PROVIDED IN THIS SECTION.

9        (B)    IT SHALL BE UNLAWFUL, AFTER DECEMBER 31 OF THE YEAR IN  
10   WHICH THIS SECTION TAKES EFFECT, FOR ANY POULTRY DEALER TO  
11   ENGAGE IN BUSINESS TRANSACTIONS WITHIN THIS COMMONWEALTH, UNLESS  
12   HE SHALL HOLD A LICENSE ISSUED BY THE DEPARTMENT AS PROVIDED IN  
13   THIS SECTION.

14        (C)    EVERY PERSON REQUIRED TO HOLD A LICENSE AS PROVIDED FOR  
15   IN SUBSECTIONS (A) AND (B) SHALL ANNUALLY, ON OR BEFORE DECEMBER  
16   31, FILE AN APPLICATION FOR A LICENSE WITH THE DEPARTMENT. THE  
17   APPLICATION SHALL BE ON A FORM FURNISHED BY THE DEPARTMENT AND  
18   SHALL CONTAIN ANY INFORMATION AS THE DEPARTMENT MAY REQUIRE.

19        (D)    UNLESS THE DEPARTMENT REFUSES THE APPLICATION ON ONE OR  
20   MORE GROUNDS AS PROVIDED IN THIS SECTION, IT SHALL ISSUE TO AN  
21   APPLICANT, UPON THE PAYMENT OF PROPER FEES, A LICENSE ENTITLING  
22   THE APPLICANT TO CONDUCT TRANSPORTATION OF POULTRY OR TO ACT AS  
23   A DEALER IN POULTRY UNTIL DECEMBER 31 OF THE YEAR NEXT  
24   FOLLOWING. THE FEE FOR EACH LICENSE SHALL BE \$25 FOR EACH  
25   DEALER'S LICENSE ISSUED AND \$25 FOR EACH VEHICLE USED FOR  
26   PURPOSES OF TRANSPORTING POULTRY.

27        (E)    EVERY OWNER OR LESSEE OF A CONVEYANCE USED TO HAUL  
28   POULTRY SHALL KEEP A RECORD FOR AT LEAST ONE YEAR OF ALL  
29   PREMISES WHERE RECEIPT OR DELIVERY OF POULTRY WAS MADE; THE  
30   QUANTITY, TYPE AND SPECIES OF POULTRY RECEIVED OR DELIVERED; THE

1 DATE RECEIVED OR DELIVERED; AND ANY OTHER INFORMATION WHICH THE  
2 DEPARTMENT BY REGULATION SHALL REQUIRE.

3 (F) EVERY DEALER OF POULTRY SHALL KEEP A RECORD FOR AT LEAST  
4 ONE YEAR OF ALL TRANSACTIONS CONDUCTED, INCLUDING NAME AND  
5 ADDRESS OF EACH BUYER AND SELLER; THE QUANTITY AND DESCRIPTION  
6 OF GOODS PURCHASED OR SOLD; THE DATE OF EACH TRANSACTION; THE  
7 NATURE OR CONDITION OF GOODS TRANSACTED; AND ANY OTHER  
8 INFORMATION WHICH THE DEPARTMENT BY REGULATION SHALL REQUIRE.

9 (G) THE DEPARTMENT MAY REFUSE TO GRANT A LICENSE OR MAY  
10 SUSPEND OR REVOKE A LICENSE ALREADY GRANTED UNDER THIS SECTION  
11 IF IT IS SATISFIED THAT THE APPLICANT OR LICENSEE HAS:

12 (1) FAILED TO MAINTAIN ADEQUATE RECORDS OF POULTRY HAULAGE  
13 OR TRANSACTIONS OR OTHER INFORMATION REQUIRED UNDER THIS SECTION  
14 OR REGULATIONS ISSUED PURSUANT THERETO.

15 (2) FAILED TO MEET THE MINIMUM STANDARDS OF SANITATION FOR  
16 CONVEYANCES AND ACCESSORIES USED FOR TRANSPORTING POULTRY IN  
17 ACCORDANCE WITH REGULATIONS ADOPTED BY THE DEPARTMENT.

18 (3) MADE ANY FALSE STATEMENT OR STATEMENTS OR KEPT ANY FALSE  
19 RECORDS RELATIVE TO THE DESTINATION, DATES OF VISIT, QUANTITY  
20 AND CONDITION OF BIRDS RECEIVED OR DELIVERED, OR ANY OTHER  
21 INFORMATION REQUIRED UNDER THIS SECTION OR REGULATIONS OF THE  
22 DEPARTMENT.

23 (4) MADE ANY FALSE STATEMENT IN THE APPLICATION FOR OR  
24 ATTEMPT TO PROCURE ANY LICENSE PERMITTED TO BE ISSUED UNDER THIS  
25 SECTION.

26 (H) (1) WITHIN SIX MONTHS OF THE EFFECTIVE DATE OF THIS  
27 SECTION, THE DEPARTMENT SHALL PROMULGATE AND PUBLISH REGULATIONS  
28 FOR STANDARDS OF RECORDKEEPING, CLEANLINESS AND OPERATION FOR  
29 ALL DEALER PREMISES AND CONVEYANCES USED IN THE TRANSPORTATION  
30 OF POULTRY AND FOR ALL CRATES, COOPS, CAGES OR OTHER

1 ACCESSORIES, WHETHER OR NOT CONSTRUCTED OF PERMEABLE MATERIAL,  
2 USED ON DEALER PREMISES AND CONVEYANCES FOR POULTRY  
3 TRANSPORTATION OR STORAGE.

4 (2) THE DEPARTMENT SHALL CONDUCT PERIODIC INSPECTIONS OF  
5 DEALER PREMISES AND CONVEYANCES AND ACCESSORIES USED IN HAULING  
6 OR STORING POULTRY AND ASCERTAIN THAT SANITATION REQUIREMENTS  
7 ARE BEING FULFILLED.

8 (I) (1) BEFORE THE DEPARTMENT SHALL REFUSE, SUSPEND OR  
9 REVOKE ANY LICENSE, IT SHALL CONDUCT A HEARING ON THE MATTER AND  
10 SHALL NOTIFY THE APPLICANT OR LICENSEE, IN WRITING, WITHIN FIVE  
11 DAYS OF ITS DETERMINATION.

12 (2) HEARINGS UNDER THIS SECTION AND APPEALS FROM DECISIONS  
13 OF THE DEPARTMENT SHALL BE CONDUCTED IN THE MANNER PROVIDED IN  
14 TITLE 2 OF THE PENNSYLVANIA CONSOLIDATED STATUTES (RELATING TO  
15 ADMINISTRATIVE LAW AND PROCEDURE) AND BY THE RULES OF APPELLATE  
16 PROCEDURE.

17 (J) ANY OWNER OR LESSEE OF A CONVEYANCE OR ANY POULTRY  
18 DEALER WHO VIOLATES THE PROVISIONS OF SUBSECTION (A) OR (B) OR  
19 INTERFERES WITH AN AGENT OF THE DEPARTMENT IN THE ENFORCEMENT OF  
20 THIS SECTION:

21 (1) FOR A FIRST OFFENSE, COMMITS A SUMMARY OFFENSE AND  
22 SHALL, UPON CONVICTION, BE SENTENCED TO PAY A FINE OF NOT LESS  
23 THAN \$100 NOR MORE THAN \$300 AND COSTS OF PROSECUTION.

24 (2) FOR A SUBSEQUENT OFFENSE, COMMITS A MISDEMEANOR OF THE  
25 THIRD DEGREE AND SHALL, UPON CONVICTION, BE SENTENCED TO PAY A  
26 FINE OF NOT LESS THAN \$500 NOR MORE THAN \$2,500 OR TO  
27 IMPRISONMENT NOT EXCEEDING ONE YEAR OR BOTH.

28 (K) THE ATTORNEY GENERAL, AT THE REQUEST OF THE DEPARTMENT,  
29 MAY, IN THE NAME OF THE COMMONWEALTH, INSTITUTE PROCEEDINGS IN  
30 EQUITY IN THE COMMONWEALTH COURT FOR THE PURPOSE OF ENJOINING

1 THE CONDUCT OF BUSINESS IN THIS COMMONWEALTH CONTRARY TO THE  
2 PROVISIONS OF THIS SECTION.

3 (L) THE DEPARTMENT SHALL, IN THE MANNER PROVIDED BY LAW,  
4 PROMULGATE AND ENFORCE THE RULES AND REGULATIONS DEEMED  
5 NECESSARY TO CARRY OUT THIS SECTION.

6 (M) ALL MONEYS RECEIVED FROM LICENSE FEES AND FINES  
7 COLLECTED UNDER THIS SECTION SHALL BE IMMEDIATELY PAID BY THE  
8 DEPARTMENT INTO THE STATE TREASURY AND CREDITED TO A RESTRICTED  
9 RECEIPTS ACCOUNT, TO BE KNOWN AS THE POULTRY INSPECTION ACCOUNT,  
10 TO BE USED FOR PAYMENT OF COSTS TO ISSUE LICENSES AND PROVIDE  
11 FOR INSPECTIONS PURSUANT TO SECTION 4. ALL MONEYS IN THIS  
12 ACCOUNT ARE HEREBY APPROPRIATED TO THE DEPARTMENT ON A  
13 CONTINUING BASIS FOR THIS PURPOSE.

14 (N) AS USED IN THIS SECTION:

15 "CONVEYANCE," MEANS ANY AUTOMOBILE, TRUCK, TRAILER, WAGON OR  
16 OTHER VEHICLE USED IN THE TRANSPORTATION OF LIVE POULTRY ON  
17 PUBLIC HIGHWAYS OF THIS COMMONWEALTH. THE TERM SHALL NOT INCLUDE  
18 ANY VEHICLE USED BY A PRODUCER EXCLUSIVELY ON A FARM OR ON  
19 CONTIGUOUS FARMS OPERATED AS PART OF A SINGLE AGRICULTURAL  
20 OPERATION.

21 "DEALER" OR "POULTRY DEALER," MEANS ANY PERSON ENGAGED IN  
22 THE BUSINESS OF BUYING, RECEIVING, SELLING, EXCHANGING,  
23 NEGOTIATING OR SOLICITING THE SALE, RESALE, EXCHANGE OR TRANSFER  
24 OF LIVE POULTRY. THE TERM DOES NOT INCLUDE ANY POULTRY PRODUCER  
25 OR ANY BUTCHER OR PROCESSOR WHO RECEIVES LIVE POULTRY SOLELY FOR  
26 IMMEDIATE SLAUGHTER.

27 "DEPARTMENT," MEANS THE DEPARTMENT OF AGRICULTURE OF THE  
28 COMMONWEALTH.

29 "PERSON," MEANS A NATURAL PERSON, CORPORATION, PARTNERSHIP OR  
30 ASSOCIATION.

1     "POULTRY," MEANS ANY CHICKENS, DUCKS, GEESE, TURKEYS,  
2     PIGEONS, CHUKARS, GUINEAS, EXOTIC FOWL AND GAME BIRDS RAISED IN  
3     CAPTIVITY.

4     "PRODUCER" OR "POULTRY PRODUCER," MEANS ANY PERSON ENGAGED IN  
5     THE BUSINESS OF GROWING OR KEEPING POULTRY FOR MARKET. THIS TERM  
6     SHALL NOT INCLUDE A PERSON WHO, BY CONTRACT, EMPLOYS ANOTHER  
7     PERSON TO EXCLUSIVELY PERFORM THE ACTUAL BREEDING, GROWING OR  
8     RAISING ACTIVITIES RELATING TO THE POULTRY, REGARDLESS OF  
9     WHETHER OR NOT SUCH EMPLOYER HAS TITLE IN THE POULTRY.

10    "SECRETARY," MEANS THE SECRETARY OF AGRICULTURE OF THE  
11    COMMONWEALTH.

12    Section 2. Section 502.1 of the act of April 12, 1951  
13    (P.L.90, No.21), known as the Liquor Code, is repealed.

14    Section 3. This act shall take effect ~~in 120 days.~~ AS  
15    FOLLOWS:

16           (1) SECTION 1712, AS ADDED BY THIS AMENDATORY ACT, AND  
17    SECTION 2 OF THIS AMENDATORY ACT, SHALL TAKE EFFECT IN 120  
18    DAYS.

19           (2) SECTION 1713, AS ADDED BY THIS AMENDATORY ACT, SHALL  
20    TAKE EFFECT IN 60 DAYS.

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