

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2139 Session of
2009

INTRODUCED BY MYERS, BELFANTI, BISHOP, BRIGGS, CARROLL,
D. COSTA, P. COSTA, DeWEESE, FLECK, FRANKEL, GERGELY,
GRUCELA, HALUSKA, HANNA, HENNESSEY, HORNAMAN, JOSEPHS, KORTZ,
KOTIK, KULA, LONGIETTI, MAHONEY, MARKOSEK, MCGEEHAN,
MIRABITO, MOUL, MUNDY, MUSTIO, M. O'BRIEN, PARKER, READSHAW,
SIPTROTH, M. SMITH, SONNEY, STABACK, STERN, TALLMAN, WAGNER,
WATERS, WHEATLEY, REICHLEY AND STURLA, DECEMBER 8, 2009

SENATOR BRUBAKER, AGRICULTURE AND RURAL AFFAIRS, IN SENATE, AS
AMENDED, SEPTEMBER 20, 2010

AN ACT

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

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

7 Section 1. Short title.

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

10 Section 2. Declaration of policy.

11 The General Assembly finds and declares as follows:

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

14 (2) Despite this Commonwealth's agricultural
15 productivity, a significant number of Pennsylvanians continue

1 to struggle with hunger and food insecurity and lack access
2 to sufficient nutritious food.

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

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

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

17 (6) This network, ~~through the Pennsylvania Association~~ ←
18 ~~of Regional Food Banks,~~ OF CHARITABLE FOOD ORGANIZATIONS has ←
19 demonstrated the capacity to administer food distribution in
20 collaboration with the Department of Agriculture as evidenced
21 by the success of the Commodity Supplemental Food Program and
22 the PASS pilot program.

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

30 Section 3. Definitions.

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

4 ~~"Agricultural products." Any fowl, animal, vegetable or~~ ←
5 ~~other stuff, product or article which is customary food or which~~
6 ~~is proper food for human beings. The term shall include wildlife~~
7 ~~or portions thereof. The term shall specifically exclude canned~~
8 ~~goods that are rusted, leaking or swollen or canned goods that~~
9 ~~are defective or cannot, for health reasons, otherwise be~~
10 ~~offered for sale to members of the general public.~~

11 ~~"Association." An association of regional food banks based~~
12 ~~in this Commonwealth selected by the department to assist with~~
13 ~~PASS.~~

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

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

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

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

24 Section 4. PASS.

25 (a) Authorization.--The department ~~is authorized to award a~~ ←
26 ~~contract or contracts for the purpose of developing and~~
27 ~~operating PASS as a safe, fast and convenient~~ SHALL DEVELOP AND ←
28 OPERATE PASS AS A system for this Commonwealth's food industry
29 to donate ~~nutritious products to the private charitable food~~ ←
30 ~~assistance network operating within this Commonwealth, SELL OR~~ ←

1 OTHERWISE PROVIDE FOOD PRODUCTS TO THE CHARITABLE FOOD
2 ORGANIZATIONS IN EXISTENCE WITHIN THIS COMMONWEALTH. THE
3 DEPARTMENT MAY CONTRACT WITH A PRIVATE CHARITABLE FOOD
4 ASSISTANCE NETWORK OPERATING WITHIN THIS COMMONWEALTH TO CARRY
5 OUT THE PROVISIONS OF THIS ACT.

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

7 (1) Identification of sources of ~~nutritious surplus~~ ←
8 ~~agricultural~~ FOOD products available for distribution to ~~feed~~ ←
9 ~~banks~~ CHARITABLE FOOD ORGANIZATIONS in this Commonwealth, ←
10 including a list of farmers ~~in this Commonwealth~~ who have ←
11 agreed to supply food products from farms located in this
12 Commonwealth, ~~verifiable by the department.~~ ←

13 (2) Determination of cost-effective mechanisms for
14 transportation of ~~these agricultural products to maximize~~ ←
15 ~~freshness~~ FOOD PRODUCTS. ←

16 (3) ~~Encouragement of food donations by growers, packers~~ ←
17 ~~and processors through reimbursements for services needed to~~
18 ~~prepare the donations for safe and efficient transportation~~
19 ~~and distribution.~~ INCENTIVES FOR GROWERS, PACKERS, PROCESSORS ←
20 AND OTHER ENTITIES IN THE FOOD INDUSTRY LOCATED IN THIS
21 COMMONWEALTH TO DONATE, SELL OR OTHERWISE PROVIDE FOOD
22 PRODUCTS, INCLUDING REIMBURSEMENT FOR SERVICES PROVIDED.

23 (4) Distribution of ~~these donated nutritious surplus~~ ←
24 ~~agricultural~~ FOOD products to needy or low-income individuals ←
25 and families ~~by the member organizations of the association~~ ←
26 ~~using a formula for the equitable distribution of donated~~
27 ~~products identical to.~~ FOOD PRODUCTS SHALL BE DISTRIBUTED IN ←
28 ACCORDANCE WITH the formula used in the administration of the
29 State Food Purchase Program. The department shall maintain a
30 list of ~~members of the association~~ CHARITABLE FOOD ←

1 ORGANIZATIONS eligible for participation in the distribution
2 of ~~donated~~ FOOD products. ←

3 ~~(5) Administration by the association.~~ ←

4 ~~(6) Oversight by the department.~~

5 ~~(7) An annual report to the secretary by the association~~

6 (5) AN ANNUAL REPORT DELIVERED TO THE CHAIRMAN AND ←
7 MINORITY CHAIRMAN OF THE AGRICULTURE AND RURAL AFFAIRS

8 COMMITTEE OF THE SENATE AND THE CHAIRMAN AND MINORITY

9 CHAIRMAN OF THE AGRICULTURE AND RURAL AFFAIRS COMMITTEE OF

10 THE HOUSE OF REPRESENTATIVES providing detailed information

11 on the sources, types and pounds of ~~product-donated~~ FOOD, the ←

12 distribution of ~~these~~ FOOD products and the number of ←

13 households served by the distributions.

14 Section 5. Administration and contracting.

15 Funds appropriated for PASS may be used for ~~the~~ ←

16 administrative purposes ~~of PASS~~, including contracting with ~~the~~ ←

17 ~~association~~ AN ORGANIZATION to carry out the provisions of this ←

18 act; PROVIDED, HOWEVER, THAT NOT MORE THAN 15% MAY BE USED FOR ←

19 ADMINISTRATIVE PURPOSES.

20 Section 6. Regulations.

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

24 (b) Preemption.--The provisions of this act, section 5.1 of
25 the act of July 10, 1981 (P.L.234, No.76), known as the Donated
26 Food Limited Liability Act, and the regulations promulgated
27 under that act and this act shall supersede and preempt any law,
28 ordinance, rule or regulation requiring a postmortem inspection
29 by a licensed veterinarian or veterinarian's designee of
30 wildlife donated, distributed and used as food.

1 Section 7. Funding.

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

4 Section 8. Effective date.

5 This act shall take effect in 60 days.