

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 42

Session of 2023

INTRODUCED BY MUSTELLO, BURGOS AND PICKETT, MARCH 7, 2023

AS REPORTED FROM COMMITTEE ON AGRICULTURE AND RURAL AFFAIRS, HOUSE OF REPRESENTATIVES, AS AMENDED, JUNE 25, 2024

AN ACT

1 Amending the act of April 28, 1937 (P.L.417, No.105), entitled
2 "An act relating to milk and the products thereof; creating a
3 Milk Marketing Board; establishing its jurisdiction, powers
4 and duties; regulating the production, transportation,
5 manufacturing, processing, storage, distribution, delivery
6 and sale of milk and certain products thereof; providing for
7 the licensing of milk dealers and the payment of fees
8 therefor; requiring milk dealers to file bonds to secure
9 payment for milk to producers and certain milk dealers;
10 authorizing the holding of hearings and the issuance of
11 subpoenas by the board; conferring jurisdiction upon courts
12 to punish contempts and to prohibit violations of this act
13 and of rules, regulations and orders of the board;
14 authorizing the board to adopt rules, regulations and orders,
15 and to enter into interstate and Federal compacts; requiring
16 persons who weigh, measure, sample or test milk to procure
17 permits or certificates, to take examinations, to pay fees
18 therefor, to furnish certain notices, records and statements,
19 and to use certain methods of weighing, measuring, sampling
20 and testing; authorizing the board to examine the business,
21 papers and premises of milk dealers and producers, requiring
22 the keeping of records and the filing of reports by milk
23 dealers, and permitting, with limitations, the use of
24 information obtained thereby; authorizing the board to fix
25 prices for milk and certain milk products subject to the
26 approval of the Governor, and conferring certain powers upon
27 the Governor with respect thereto; providing for appeals to
28 the courts from decisions of the board, and for the burden of
29 proof upon such appeals; prescribing penalties, fines and
30 imprisonment for violations of this act and rules,
31 regulations and orders of the board; defining perjury;
32 defining remedies; repealing legislation supplied and
33 superseded by this act, and saving rights, duties and
34 proceedings thereunder; and making appropriations," in

1 licenses of milk dealers, further providing for penalties in
2 lieu of suspension; AND, IN WEIGHING AND TESTING, FURTHER <--
3 PROVIDING FOR CERTIFIED TESTERS AND FOR CERTIFIED WEIGHERS
4 AND SAMPLERS.

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

7 ~~Section 1. Section 404.1 of the act of April 28, 1937~~ <--
8 ~~(P.L.417, No.105), known as the Milk Marketing Law, is amended~~
9 ~~to read:~~

10 ~~Section 404.1. Penalties in Lieu of Suspension. In any case~~
11 ~~where the board shall suspend a license, the board may accept~~
12 ~~from the licensee an offer in compromise at the rate of [one~~
13 ~~hundred fifty dollars (\$150)] one thousand dollars (\$1,000) for~~
14 ~~each day of suspension as a penalty in lieu of such suspension,~~
15 ~~and thereupon rescind the suspension.~~

16 SECTION 1. SECTIONS 404.1, 602 AND 603 OF THE ACT OF APRIL <--
17 28, 1937 (P.L.417, NO.105), KNOWN AS THE MILK MARKETING LAW, ARE
18 AMENDED TO READ:

19 SECTION 404.1. PENALTIES IN LIEU OF SUSPENSION.--IN ANY CASE
20 WHERE THE BOARD SHALL SUSPEND A LICENSE, THE BOARD MAY ACCEPT
21 FROM THE LICENSEE AN OFFER IN COMPROMISE AT THE RATE OF [ONE
22 HUNDRED FIFTY DOLLARS (\$150)] ONE THOUSAND DOLLARS (\$1,000) FOR
23 EACH DAY OF SUSPENSION AS A PENALTY IN LIEU OF SUCH SUSPENSION,
24 AND THEREUPON RESCIND THE SUSPENSION.

25 SECTION 602. CERTIFIED TESTERS.--IT SHALL BE UNLAWFUL FOR
26 ANY MILK DEALER TO BUY OR RECEIVE MILK FROM PRODUCERS, OR TO
27 SELL OR DELIVER MILK TO STORES OR CONSUMERS, ON THE BASIS OF, OR
28 WITH REFERENCE TO, THE AMOUNT OF BUTTERFAT OR APPROPRIATE MILK
29 COMPONENTS CONTAINED IN SUCH MILK, UNLESS THE BUTTERFAT OR
30 COMPONENT TESTS THEREOF IS CONDUCTED BY A TESTER CERTIFIED BY
31 THE BOARD.

32 THE CERTIFIED TESTER SHALL KEEP AN ACCURATE RECORD OF ALL

1 TESTS MADE, AND COPIES OF SUCH RECORD SHALL BE KEPT FOR A PERIOD
2 OF TWO (2) YEARS BY HIM AND BY THE MILK DEALER.

3 ANY PERSON WHO, UPON THE EFFECTIVE DATE OF THIS ACT, IS THE
4 HOLDER OF A CERTIFICATE OF PROFICIENCY FOR MILK TESTING ISSUED
5 AFTER EXAMINATION CONDUCTED BY THE PENNSYLVANIA DEPARTMENT OF
6 AGRICULTURE, SHALL, UPON APPLICATION TO THE BOARD, ON A FORM
7 PRESCRIBED BY THE BOARD, FURNISHING INFORMATION INCLUDING THAT
8 PERTAINING TO GOOD CHARACTER AND TO THE APPARATUS AND METHODS
9 USED IN TESTING, BE ISSUED A CERTIFICATE AND BE DESIGNATED
10 THEREIN AS A CERTIFIED TESTER.

11 ANY PERSON WHO IS NOT THE HOLDER OF SUCH CERTIFICATE OF
12 PROFICIENCY UPON THE EFFECTIVE DATE OF THIS ACT, SHALL, PRIOR TO
13 APPLYING FOR A TESTER'S CERTIFICATE, APPLY TO THE BOARD FOR A
14 CERTIFICATE OF PROFICIENCY. SUCH APPLICATION SHALL BE
15 ACCOMPANIED BY A FEE [OF FIVE DOLLARS (\$5.00).] ESTABLISHED
16 UNDER SECTION 7 OF THE ACT OF JULY 1, 1978 (P.L.730, NO.132),
17 KNOWN AS THE "MILK MARKETING FEE ACT." THE APPLICANT SHALL BE
18 REQUIRED TO PASS AN EXAMINATION IN MILK TESTING, REASONABLY
19 PRESCRIBED AND CONDUCTED BY THE BOARD, AND UPON APPROVAL OF THE
20 APPLICATION SHALL BE ISSUED A CERTIFICATE OF PROFICIENCY.
21 THEREUPON, AND [ANNUALLY] THEREAFTER WITHOUT SUCH EXAMINATION,
22 THE PERSON SO CERTIFIED MAY APPLY FOR A TESTER'S CERTIFICATE AS
23 HEREIN PRESCRIBED.

24 THE APPLICATION FOR A TESTER'S CERTIFICATE, ACCOMPANIED BY A
25 FEE [OF FIVE DOLLARS (\$5.00),] ESTABLISHED UNDER SECTION 7 OF
26 THE "MILK MARKETING FEE ACT," SHALL BE FILED, UPON A FORM
27 PRESCRIBED BY THE BOARD, BEFORE COMMENCING TO TEST MILK[, AND
28 ANNUALLY THEREAFTER ON OR BEFORE DECEMBER FIRST].

29 THE TESTER'S CERTIFICATE ISSUED HEREUNDER SHALL BE FOR [THE
30 TERM OF ONE CALENDAR YEAR] A TERM OF NO MORE THAN TWO (2) YEARS

1 FROM THE DATE OF ISSUANCE, AND SHALL BE POSTED AND KEPT IN PLAIN
2 VIEW IN THE PLANT IN WHICH THE CERTIFIED TESTER IS EMPLOYED.

3 SECTION 603. CERTIFIED WEIGHERS AND SAMPLERS.--IT SHALL BE
4 UNLAWFUL FOR ANY MILK DEALER TO BUY OR RECEIVE MILK FROM
5 PRODUCERS, OR TO SELL OR DELIVER MILK TO STORES OR CONSUMERS ON
6 THE BASIS OF, OR WITH REFERENCE TO, THE AMOUNT OF BUTTERFAT OR
7 APPROPRIATE MILK COMPONENTS CONTAINED IN SUCH MILK, UNLESS THE
8 SAMPLES TAKEN FOR TESTING PURPOSES SHALL BE MADE BY A CERTIFIED
9 TESTER OR CERTIFIED WEAHER AND SAMPLER, AND ACCORDING TO THE
10 METHOD PRESCRIBED IN THIS ACT OR IN REGULATIONS ESTABLISHED BY
11 THE BOARD UNDER THIS ACT.

12 IT SHALL BE UNLAWFUL FOR ANY PERSON TO PICK UP MILK FROM
13 FARMS UNLESS THE PERSON MAKING THE PICKUP HAS A VALID TESTER'S
14 CERTIFICATE OR WEAHER'S OR SAMPLER'S CERTIFICATE ISSUED BY THE
15 BOARD.

16 ANY PERSON WHO, UPON THE EFFECTIVE DATE OF THIS ACT, IS THE
17 HOLDER OF A CERTIFICATE OF PROFICIENCY FOR MILK WEIGHING AND
18 SAMPLING ISSUED AFTER EXAMINATION CONDUCTED BY THE PENNSYLVANIA
19 DEPARTMENT OF AGRICULTURE, SHALL, UPON APPLICATION TO THE BOARD
20 ON A FORM PRESCRIBED BY THE BOARD FURNISHING INFORMATION
21 INCLUDING THAT PERTAINING TO GOOD CHARACTER AND TO APPARATUS AND
22 METHODS USED IN WEIGHING AND SAMPLING, BE ISSUED A CERTIFICATE
23 AND BE DESIGNATED THEREIN AS A CERTIFIED WEAHER AND SAMPLER.

24 ANY PERSON WHO IS NOT THE HOLDER OF SUCH CERTIFICATE OF
25 PROFICIENCY UPON THE EFFECTIVE DATE OF THIS ACT, SHALL, PRIOR TO
26 APPLYING FOR A WEIGHING AND SAMPLING CERTIFICATE, APPLY TO THE
27 BOARD FOR A CERTIFICATE OF PROFICIENCY. SUCH APPLICATION SHALL
28 BE ACCOMPANIED BY A FEE [OF FIVE DOLLARS (\$5.00).] ESTABLISHED
29 UNDER SECTION 8 OF THE ACT OF JULY 1, 1978 (P.L.730, NO.132),
30 KNOWN AS THE "MILK MARKETING FEE ACT." THE APPLICANT SHALL BE

1 REQUIRED TO PASS AN EXAMINATION IN WEIGHING AND SAMPLING MILK,
2 REASONABLY PRESCRIBED AND CONDUCTED BY THE BOARD, AND UPON
3 APPROVAL OF THE APPLICATION SHALL BE ISSUED A CERTIFICATE OF
4 PROFICIENCY. THEREUPON, AND [ANNUALLY] THEREAFTER WITHOUT SUCH
5 EXAMINATION, THE PERSON SO CERTIFIED MAY APPLY FOR A CERTIFICATE
6 AS A CERTIFIED WEIGHER AND SAMPLER. THE APPLICATION FOR SUCH
7 WEIGHING AND SAMPLING CERTIFICATE, ACCOMPANIED BY A FEE [OF FIVE
8 DOLLARS (\$5.00),] ESTABLISHED UNDER SECTION 8 OF THE "MILK
9 MARKETING FEE ACT," SHALL BE FILED, UPON A FORM PRESCRIBED BY
10 THE BOARD, BEFORE COMMENCING TO SAMPLE MILK[, AND ANNUALLY
11 THEREAFTER ON OR BEFORE DECEMBER FIRST].

12 THE WEIGHING AND SAMPLING CERTIFICATE ISSUED HEREUNDER SHALL
13 BE FOR [THE TERM OF ONE CALENDAR YEAR] A TERM OF NO MORE THAN
14 TWO (2) YEARS FROM THE DATE OF ISSUANCE, AND SHALL BE POSTED AND
15 KEPT IN PLAIN VIEW IN THE ROOM IN WHICH THE CERTIFIED WEIGHER
16 AND SAMPLER IS EMPLOYED.

17 Section 2. This act shall take effect in 60 days.