
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 157 Session of
2023

INTRODUCED BY PASHINSKI, MADDEN, RABB, SANCHEZ, KINSEY, CIRESI,
HILL-EVANS, JOZWIAK, HARKINS, FLEMING, NEILSON, BURGOS,
GUENST, STURLA, MALAGARI, ZIMMERMAN, KINKEAD, HADDOCK,
O'MARA, ROZZI, JAMES, WARREN, FREEMAN, KHAN AND SAMUELSON,
MARCH 8, 2023

REFERRED TO COMMITTEE ON AGRICULTURE AND RURAL AFFAIRS,
MARCH 8, 2023

AN ACT

1 Amending Title 3 (Agriculture) of the Pennsylvania Consolidated
2 Statutes, in Pennsylvania Preferred® Trademark, further
3 providing for definitions, providing for Pennsylvania
4 Preferred® and Pennsylvania Preferred Organic® Trademark
5 Licensing Fund and for rules and regulations, repealing
6 provisions relating to Pennsylvania Preferred® Trademark
7 Licensing Fund and to rules and regulations, providing for
8 the Pennsylvania Preferred Organic® Program, for Pennsylvania
9 Preferred Organic® trademark and for purpose, establishing
10 the Pennsylvania Preferred Organic® Advisory Committee and
11 providing for standards, for duties and authority of
12 department, for trademark license agreement, application and
13 licensure process, for costs, for civil penalties and for
14 injunctive relief; and making an editorial change.

15 The General Assembly of the Commonwealth of Pennsylvania
16 hereby enacts as follows:

17 Section 1. Section 4602 of Title 3 of the Pennsylvania
18 Consolidated Statutes is amended by adding definitions to read:
19 § 4602. Definitions.

20 The following words and phrases when used in this chapter
21 shall have the meanings given to them in this section unless the
22 context clearly indicates otherwise:

1 "Advisory committee." The Pennsylvania Preferred Organic®
2 Advisory Committee established under section 4624 (relating to
3 Pennsylvania Preferred Organic® Advisory Committee).

4 * * *

5 "Pennsylvania Preferred Organic® trademark." One or more
6 trademarks that consist of the phrase "Pennsylvania Preferred
7 Organic" or "PA Preferred Organic" and that may include specific
8 graphic designs or artwork as part of the trademark registration
9 and that identify the agricultural commodity with respect to
10 which the trademark is used as meeting the requirements of this
11 chapter for Pennsylvania-produced organic agricultural
12 commodities.

13 * * *

14 "USDA National Organic Production Program." The National
15 Organic Production Program established under 7 U.S.C. § 6503
16 (relating to national organic production program) and any
17 attendant regulations.

18 Section 2. Title 3 is amended by adding sections to read:
19 § 4603. Pennsylvania Preferred® and Pennsylvania Preferred
20 Organic® Trademark Licensing Fund.

21 (a) Redesignation.--The Pennsylvania Preferred® Trademark
22 Licensing Fund in the State Treasury is redesignated the
23 Pennsylvania Preferred® and Pennsylvania Preferred Organic®
24 Trademark Licensing Fund. The following money shall be deposited
25 into the fund:

26 (1) Money as is appropriated, given, granted or donated
27 for the purpose established under this chapter by the Federal
28 Government, the Commonwealth or any other government or
29 private agency or person.

30 (2) Funds derived from the costs established under

1 sections 4615 (relating to costs) and 4628 (relating to
2 costs).

3 (3) Funds derived from civil penalties collected by the
4 department under sections 4617 (relating to civil penalties)
5 and 4629 (relating to civil penalties).

6 (b) Appropriation.--Money in the fund is appropriated on a
7 continuing basis to the department for the purpose of
8 administering this chapter. All interest and earnings received
9 from investment or deposit of the money in the fund shall be
10 paid into the fund for the purpose authorized by this section.
11 Unexpended money and interest or earnings on the money in the
12 fund may not be transferred or revert to the General Fund but
13 shall remain in the fund to be used by the department for the
14 purpose specified under this section.

15 (c) Use.--Money deposited into the fund shall be used as
16 follows:

17 (1) To promote the licensure and use of the Pennsylvania
18 Preferred® trademark and Pennsylvania Preferred Organic®
19 trademark with respect to Pennsylvania-produced agricultural
20 commodities.

21 (2) To promote the Pennsylvania Preferred® trademark and
22 Pennsylvania Preferred Organic® trademark as an
23 identification of origin and quality.

24 (3) To promote Pennsylvania-produced agricultural
25 commodities with respect to which the Pennsylvania Preferred®
26 trademark is licensed.

27 (4) To promote the Pennsylvania Preferred Organic®
28 Program.

29 (5) To pay costs associated with monitoring the use of
30 the Pennsylvania Preferred® trademark, prohibiting the

1 unlawful or unauthorized use of the trademark and enforcing
2 rights in the trademark.

3 (6) To promote participation under this chapter by
4 qualified veterans and qualified veteran business entities.

5 (7) To promote, encourage and facilitate cooperation by
6 the department with military, government or private sector
7 marketing efforts that identify, emphasize and encourage the
8 production and marketing of Pennsylvania-produced
9 agricultural commodities by qualified veterans and qualified
10 veteran business entities.

11 (8) To otherwise fund the department's costs in
12 administering and enforcing this chapter.

13 (d) Definitions.--As used in this section, the following
14 words and phrases shall have the meanings given to them in this
15 subsection unless the context clearly indicates otherwise:

16 "Qualified veteran." As defined under section 4632 (relating
17 to definitions).

18 "Qualified veteran business entity." As defined under
19 section 4632.

20 § 4604. Rules and regulations.

21 The department shall promulgate rules and regulations
22 necessary to promote the efficient, uniform and Statewide
23 administration of this subchapter.

24 Section 3. Sections 4616 and 4619 of Title 3 are repealed:

25 [§ 4616. Pennsylvania Preferred® Trademark Licensing Fund.

26 (a) Establishment.--There is established in the State
27 Treasury a special fund which shall be an interest-bearing
28 restricted revenue account to be known as the Pennsylvania
29 Preferred® Trademark Licensing Fund. The following money shall
30 be deposited into the fund:

1 (1) Money as is appropriated, given, granted or donated
2 for the purpose established under this chapter by the Federal
3 Government, the Commonwealth or any other government or
4 private agency or person.

5 (2) Funds derived from the costs established under
6 section 4615 (relating to costs).

7 (3) Funds derived from civil penalties collected by the
8 department under section 4617 (relating to civil penalties).

9 (b) Appropriation.--Money in the fund is appropriated on a
10 continuing basis to the department for the purpose of
11 administering this chapter. All interest and earnings received
12 from investment or deposit of the money in the fund shall be
13 paid into the account for the purpose authorized by this
14 section. Any unexpended money and any interest or earnings on
15 the money in the fund may not be transferred or revert to the
16 General Fund, but shall remain in the account to be used by the
17 department for the purpose specified under this section.

18 (c) Use.--Money deposited in the fund shall be used as
19 follows:

20 (1) To promote the licensure and use of the Pennsylvania
21 Preferred® trademark with respect to Pennsylvania-produced
22 agricultural commodities.

23 (2) To promote the Pennsylvania Preferred® trademark as
24 an identification of origin and quality.

25 (3) To promote Pennsylvania-produced agricultural
26 commodities with respect to which the Pennsylvania Preferred®
27 trademark is licensed.

28 (4) To pay costs associated with monitoring the use of
29 the Pennsylvania Preferred® trademark, prohibiting the
30 unlawful or unauthorized use of the trademark and enforcing

1 rights in the trademark.

2 (4.1) To promote participation under this chapter by
3 qualified veterans and qualified veteran business entities.

4 (4.2) To promote, encourage and facilitate cooperation
5 by the department with military, government or private sector
6 marketing efforts that identify, emphasize and encourage the
7 production and marketing of Pennsylvania-produced
8 agricultural commodities by qualified veterans and qualified
9 veteran business entities.

10 (5) To otherwise fund the department's costs in
11 administering and enforcing this chapter.

12 (d) Definitions.--As used in this section, the following
13 words and phrases shall have the meanings given to them in this
14 subsection unless the context clearly indicates otherwise:

15 "Qualified veteran." As defined under section 4632 (relating
16 to definitions).

17 "Qualified veteran business entity." As defined under
18 section 4632.

19 § 4619. Rules and regulations.

20 The department shall promulgate rules and regulations
21 necessary to promote the efficient, uniform and Statewide
22 administration of this chapter. For two years from the effective
23 date of this section, the department shall have the power and
24 authority to promulgate, adopt and use guidelines to implement
25 the provisions of this chapter. The guidelines shall be
26 published in the Pennsylvania Bulletin but shall not be subject
27 to review under section 205 of the act of July 31, 1968
28 (P.L.769, No.240), referred to as the Commonwealth Documents
29 Law, sections 204(b) and 301(10) of the act of October 15, 1980
30 (P.L.950, No.164), known as the Commonwealth Attorneys Act, or

1 the act of June 25, 1982 (P.L.633, No.181), known as the
2 Regulatory Review Act. All guidelines shall expire no later than
3 December 31, 2013, and shall be replaced by regulations which
4 shall have been promulgated, adopted and published as provided
5 under law.]

6 Section 4. Subchapter C heading of Chapter 46 of Title 3 is
7 amended to read:

8 SUBCHAPTER C

9 [(Reserved)]

10 Pennsylvania Preferred Organic® Program

11 Section 5. Subchapter C of Chapter 46 of Title 3 is amended
12 by adding sections to read:

13 § 4621. Pennsylvania Preferred Organic® Program.

14 The department shall establish, administer and operate a
15 Pennsylvania Preferred Organic® Program.

16 § 4622. Pennsylvania Preferred Organic® trademark.

17 The department shall take all actions necessary and
18 appropriate to acquire, create, establish, register, maintain,
19 license, promote and protect a Pennsylvania Preferred Organic®
20 trademark for use on or in connection with the sale, marketing
21 or promotion of a Pennsylvania-produced agricultural organic
22 commodity.

23 § 4623. Purpose.

24 The purposes of this subchapter is to:

25 (1) Establish a program under which qualified producers,
26 processors and marketers of Pennsylvania-produced organic
27 agricultural commodities can be licensed by the department to
28 make use of the Pennsylvania Preferred Organic® trademark
29 with respect to agricultural organic products.

30 (2) Establish licensure standards that require qualified

1 producers described under paragraph (1) to meet or exceed the
2 standards required under the USDA National Organic Production
3 Program.

4 (3) Establish the Pennsylvania Preferred Organic®
5 trademark as a symbol of product quality and of organic
6 production in accordance with rigorous, scientific standards
7 for production of organic agricultural commodities.

8 (4) Provide added product value for licensed qualified
9 entities that make use of the Pennsylvania Preferred Organic®
10 trademark.

11 (5) Encourage producers of Pennsylvania-produced organic
12 agricultural commodities to, as a desirable business measure,
13 meet or exceed USDA National Organic Production Program
14 standards and to pursue licensure to make use of the
15 Pennsylvania Preferred Organic® trademark.

16 (6) Provide the department, the advisory committee
17 established under section 4624 (relating to Pennsylvania
18 Preferred Organic® Advisory Committee) and this
19 Commonwealth's organic producers greater familiarity with the
20 requirements of the USDA National Organic Production Program
21 and, in time, pursue USDA approval of the Pennsylvania
22 Preferred Organic® Program as the official organics program
23 in this Commonwealth.

24 (7) Encourage organic production and organic soil-
25 building practices that enhance biodiversity, conserve
26 natural resources and contribute to other public and
27 environmental health benefits.

28 (8) Improve this Commonwealth's competitiveness in
29 organic agricultural commodities.

30 § 4624. Pennsylvania Preferred Organic® Advisory Committee.

1 (a) Establishment.--The secretary shall establish an
2 advisory committee, which shall be known as the Pennsylvania
3 Preferred Organic® Advisory Committee, to advise the secretary
4 with respect to the secretary's responsibilities under this
5 subchapter.

6 (b) Membership.--

7 (1) Each member of the advisory committee may have an
8 alternate. The advisory committee shall be composed of:

9 (i) The secretary or a designee, who shall chair the
10 advisory committee.

11 (ii) Six members shall be producers, at least two of
12 whom shall be producers of meat, fowl, fish, dairy
13 products or eggs.

14 (iii) Two members shall be processors.

15 (iv) One member shall be a wholesale distributor.

16 (v) One member shall be a representative of an
17 accredited certifying agency operating in this
18 Commonwealth.

19 (vi) One member shall be a consumer representative.

20 The following shall apply:

21 (A) The consumer representative may not have a
22 financial interest in the direct sales or marketing
23 of the organic product industry.

24 (B) The consumer representative shall be a
25 member or employee of representatives of recognized
26 nonprofit organizations whose principal purpose is
27 the protection of consumer health.

28 (vii) One member shall be an environmental
29 representative. The following shall apply:

30 (A) The environmental representative may not

1 have a financial interest in the direct sales or
2 marketing of the organic product industry.

3 (B) The environmental representative shall be a
4 member or employee of representatives of recognized
5 nonprofit organizations whose principal purpose is
6 the protection of the environment.

7 (viii) Two members shall be technical
8 representatives with scientific credentials related to
9 agricultural chemicals, toxicology or food science. The
10 following shall apply:

11 (A) The technical representatives shall not have
12 a financial interest in the production, handling,
13 processing or marketing of the organic products
14 industry.

15 (B) The technical representatives may be
16 involved in organic research or technical review,
17 providing that the technical representatives have no
18 financial benefit from results of the research
19 project or technical review.

20 (ix) One member shall be a retail representative.

21 (2) Except for the consumer, environmental and technical
22 representatives described in paragraph (1)(vi), (vii) and
23 (viii), the members of the advisory committee shall have
24 derived a substantial portion of their business income, wages
25 or salary from services that the members provide that
26 directly result in the production, handling, processing or
27 retailing of products sold as organic for at least three
28 years preceding the appointment to the advisory committee.

29 (c) Duties.--The advisory committee shall have the following
30 duties:

1 (1) Advise the secretary on education, outreach and
2 technical assistance for producers.

3 (2) Advise with respect to the creation of standards
4 under which the department shall license qualified entities
5 to make use of the Pennsylvania Preferred® Organic trademark
6 in connection with the sale, marketing or promotion of
7 Pennsylvania-produced organic agricultural commodities.

8 (3) Advise the secretary on program and regulatory
9 standards for the Pennsylvania Preferred® Organic Program and
10 ways to improve that program, with the objective of
11 establishing standards at least as rigorous as those for the
12 USDA National Organic Production Program.

13 (4) As requested by the secretary, support organic
14 agriculture through outreach and educational efforts targeted
15 to producers, consumers, academia, Federal regulators and
16 others.

17 (d) Terms.--The members of the advisory committee shall
18 serve for terms of two years or three years or until their
19 successors are appointed, except that the members of the
20 advisory board first appointed shall be appointed for staggered
21 terms so that the terms of no more than five members shall
22 expire annually.

23 § 4625. Standards.

24 (a) Organic standards.--The organic food or product
25 regulations adopted under 7 U.S.C. § 6521 (relating to
26 administration) that are in effect on the effective date of this
27 section, or that are adopted after the effective date of this
28 section, shall be the organic standards under which the
29 department licenses qualified entities to make use of the
30 Pennsylvania Preferred Organic® trademark with respect to

1 Pennsylvania-produced organic agricultural commodities, except
2 to the extent that the department promulgates regulatory
3 standards that vary from those Federal standards.

4 (b) Regulatory standards.--The secretary may, by regulation,
5 prescribe standards under which the department shall license
6 qualified entities to make use of the Pennsylvania Preferred
7 Organic® trademark with respect to Pennsylvania-produced organic
8 agricultural commodities that vary from regulatory standards
9 promulgated under the authority of subsection (a).

10 § 4626. Duties and authority of department.

11 (a) Department authority to enter into trademark license
12 agreements.--

13 (1) The department may enter into a trademark license
14 agreement with a qualified entity.

15 (2) The terms and conditions shall require a licensee to
16 produce, process, promote or market an agricultural commodity
17 in a manner acceptable to the department which protects the
18 reputation of the Pennsylvania Preferred Organic® trademark.

19 (3) The department may periodically review a trademark
20 license agreement to determine if the terms are being met.

21 (b) Cooperative activities.--The department may engage in
22 cooperative activities to implement and advance the purposes of
23 this chapter.

24 § 4627. Trademark license agreement, application and licensure
25 process.

26 (a) Application for agreement.--

27 (1) A qualified entity may apply to be licensed to use
28 the Pennsylvania Preferred Organic® trademark.

29 (2) The application shall be on a form prepared by the
30 department and include identification information and other

1 information that the department deems necessary to determine
2 if the applicant is a qualified entity.

3 (3) The application form shall be provided by the
4 department upon request.

5 (4) The department shall have the discretion to
6 determine whether a person is a qualified entity for purposes
7 of this subchapter.

8 (5) If the department determines that an applicant is a
9 qualified entity, the department shall offer the qualified
10 entity a trademark license agreement.

11 (6) A trademark license agreement under this subchapter
12 shall be effective for one year from the date upon which an
13 agreement is executed and may be renewed. An agreement shall
14 contain provisions allowing for the termination of the
15 trademark license agreement by the department or a licensee
16 upon 60 days' advance written notice to the other party.

17 (b) Preexisting trademark license agreements.--A trademark
18 license agreement that is in effect prior to the effective date
19 of this section and that authorizes the use of a Pennsylvania
20 Preferred® trademark or Pennsylvania Preferred Organic®
21 trademark shall remain in effect until it is terminated or until
22 the end of the current contract year, whichever occurs first.

23 § 4628. Costs.

24 Reimbursement of costs are as follows:

25 (1) The department may charge a licensee for costs
26 incurred by the department in connection with that licensee's
27 participation in an activity, trade show, exhibition or other
28 promotional event conducted or facilitated by the department.
29 A charge shall reasonably reflect the costs incurred by the
30 department in facilitating the licensee's participation and

1 may include such costs as proportional shares of event
2 registration fees, equipment rental fees, display area rental
3 fees and related costs.

4 (2) The department may charge a licensee for costs of
5 Pennsylvania Preferred Organic® promotional materials
6 provided by the department at the request of the licensee.

7 § 4629. Civil penalties.

8 In addition to other remedies available at law or in equity
9 for a violation of a provision of this subchapter or a trademark
10 license agreement established under this subchapter, the
11 department may assess a civil penalty upon the person
12 responsible for the violation. The civil penalty assessed shall
13 not exceed \$10,000 and shall be payable to the Commonwealth and
14 collectible in any manner provided under law for the collection
15 of debt.

16 § 4630. Injunctive relief.

17 In addition to any other remedies provided for under this
18 subchapter, the Attorney General, at the request of the
19 department, may initiate, in the Commonwealth Court or the court
20 of common pleas of the county in which the defendant resides or
21 has a place of business, an action in equity for an injunction
22 to restrain violations of this chapter or a trademark license
23 agreement. In the proceeding, the court shall, upon motion of
24 the Commonwealth, issue a preliminary injunction if it finds
25 that the defendant is engaging in unlawful conduct under this
26 subchapter or is engaging in conduct which is causing immediate
27 or irreparable harm to the public. The Commonwealth shall not be
28 required to furnish bond or other security in connection with
29 the proceedings. In addition to an injunction, the court, in
30 equity proceedings, may levy civil penalties as provided under

1 section 4629 (relating to civil penalties).

2 Section 6. This act shall take effect in 60 days.