

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

AS REPORTED FROM COMMITTEE ON AGRICULTURE AND RURAL AFFAIRS, HOUSE OF REPRESENTATIVES, AS AMENDED, APRIL 25, 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 AMENDING TITLE 3 (AGRICULTURE) OF THE PENNSYLVANIA CONSOLIDATED <--
16 STATUTES, IN PENNSYLVANIA PREFERRED® TRADEMARK, FURTHER
17 PROVIDING FOR DEFINITIONS, FOR PENNSYLVANIA PREFERRED®
18 TRADEMARK, FOR LICENSEE QUALIFICATION, FOR DUTIES AND
19 AUTHORITY OF DEPARTMENT, FOR TRADEMARK LICENSE AGREEMENT,
20 APPLICATION AND LICENSURE PROCESS, FOR COSTS, FOR
21 PENNSYLVANIA PREFERRED® TRADEMARK LICENSING FUND, FOR
22 INJUNCTIVE RELIEF, FOR RULES AND REGULATIONS AND FOR PURPOSE,
23 REPEALING PROVISIONS RELATING TO DEFINITIONS AND FURTHER
24 PROVIDING FOR QUALIFIED VETERANS AND QUALIFIED VETERAN
25 BUSINESS ENTITIES.

26 The General Assembly of the Commonwealth of Pennsylvania
27 hereby enacts as follows:

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

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

7 "Advisory committee." The Pennsylvania Preferred Organic®
8 Advisory Committee established under section 4624 (relating to
9 Pennsylvania Preferred Organic® Advisory Committee).

10 * * *

11 "Pennsylvania Preferred Organic® trademark." One or more
12 trademarks that consist of the phrase "Pennsylvania Preferred
13 Organic" or "PA Preferred Organic" and that may include specific
14 graphic designs or artwork as part of the trademark registration
15 and that identify the agricultural commodity with respect to
16 which the trademark is used as meeting the requirements of this
17 chapter for Pennsylvania produced organic agricultural
18 commodities.

19 * * *

20 "USDA National Organic Production Program." The National
21 Organic Production Program established under 7 U.S.C. § 6503
22 (relating to national organic production program) and any
23 attendant regulations.

24 Section 2. Title 3 is amended by adding sections to read:
25 ~~§ 4603. Pennsylvania Preferred® and Pennsylvania Preferred~~
26 ~~Organic® Trademark Licensing Fund.~~

27 ~~(a) Redesignation. The Pennsylvania Preferred® Trademark~~
28 ~~Licensing Fund in the State Treasury is redesignated the~~
29 ~~Pennsylvania Preferred® and Pennsylvania Preferred Organic®~~
30 ~~Trademark Licensing Fund. The following money shall be deposited~~

1 ~~into the fund:~~

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

6 ~~(2) Funds derived from the costs established under~~
7 ~~sections 4615 (relating to costs) and 4628 (relating to~~
8 ~~costs).~~

9 ~~(3) Funds derived from civil penalties collected by the~~
10 ~~department under sections 4617 (relating to civil penalties)~~
11 ~~and 4629 (relating to civil penalties).~~

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

21 ~~(c) Use. Money deposited into the fund shall be used as~~
22 ~~follows:~~

23 ~~(1) To promote the licensure and use of the Pennsylvania~~
24 ~~Preferred® trademark and Pennsylvania Preferred Organic®~~
25 ~~trademark with respect to Pennsylvania produced agricultural~~
26 ~~commodities.~~

27 ~~(2) To promote the Pennsylvania Preferred® trademark and~~
28 ~~Pennsylvania Preferred Organic® trademark as an~~
29 ~~identification of origin and quality.~~

30 ~~(3) To promote Pennsylvania produced agricultural~~

~~commodities with respect to which the Pennsylvania Preferred® trademark is licensed.~~

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

~~(5) To pay costs associated with monitoring the use of the Pennsylvania Preferred® trademark, prohibiting the unlawful or unauthorized use of the trademark and enforcing rights in the trademark.~~

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

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

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

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

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

~~"Qualified veteran business entity." As defined under section 4632.~~

~~§ 4604. Rules and regulations.~~

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

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

1 ~~{§ 4616. Pennsylvania Preferred® Trademark Licensing Fund.~~

2 ~~(a) Establishment. There is established in the State~~
3 ~~Treasury a special fund which shall be an interest bearing~~
4 ~~restricted revenue account to be known as the Pennsylvania~~
5 ~~Preferred® Trademark Licensing Fund. The following money shall~~
6 ~~be deposited into the fund:~~

7 ~~(1) Money as is appropriated, given, granted or donated~~
8 ~~for the purpose established under this chapter by the Federal~~
9 ~~Government, the Commonwealth or any other government or~~
10 ~~private agency or person.~~

11 ~~(2) Funds derived from the costs established under~~
12 ~~section 4615 (relating to costs).~~

13 ~~(3) Funds derived from civil penalties collected by the~~
14 ~~department under section 4617 (relating to civil penalties).~~

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

24 ~~(c) Use. Money deposited in the fund shall be used as~~
25 ~~follows:~~

26 ~~(1) To promote the licensure and use of the Pennsylvania~~
27 ~~Preferred® trademark with respect to Pennsylvania produced~~
28 ~~agricultural commodities.~~

29 ~~(2) To promote the Pennsylvania Preferred® trademark as~~
30 ~~an identification of origin and quality.~~

1 ~~(3) To promote Pennsylvania produced agricultural~~
2 ~~commodities with respect to which the Pennsylvania Preferred®~~
3 ~~trademark is licensed.~~

4 ~~(4) To pay costs associated with monitoring the use of~~
5 ~~the Pennsylvania Preferred® trademark, prohibiting the~~
6 ~~unlawful or unauthorized use of the trademark and enforcing~~
7 ~~rights in the trademark.~~

8 ~~(4.1) To promote participation under this chapter by~~
9 ~~qualified veterans and qualified veteran business entities.~~

10 ~~(4.2) To promote, encourage and facilitate cooperation~~
11 ~~by the department with military, government or private sector~~
12 ~~marketing efforts that identify, emphasize and encourage the~~
13 ~~production and marketing of Pennsylvania produced~~
14 ~~agricultural commodities by qualified veterans and qualified~~
15 ~~veteran business entities.~~

16 ~~(5) To otherwise fund the department's costs in~~
17 ~~administering and enforcing this chapter.~~

18 ~~(d) Definitions. As used in this section, the following~~
19 ~~words and phrases shall have the meanings given to them in this~~
20 ~~subsection unless the context clearly indicates otherwise:~~

21 ~~"Qualified veteran." As defined under section 4632 (relating~~
22 ~~to definitions).~~

23 ~~"Qualified veteran business entity." As defined under~~
24 ~~section 4632.~~

25 ~~§ 4619. Rules and regulations.~~

26 ~~The department shall promulgate rules and regulations~~
27 ~~necessary to promote the efficient, uniform and Statewide~~
28 ~~administration of this chapter. For two years from the effective~~
29 ~~date of this section, the department shall have the power and~~
30 ~~authority to promulgate, adopt and use guidelines to implement~~

1 ~~the provisions of this chapter. The guidelines shall be~~
2 ~~published in the Pennsylvania Bulletin but shall not be subject~~
3 ~~to review under section 205 of the act of July 31, 1968~~
4 ~~(P.L.769, No.240), referred to as the Commonwealth Documents~~
5 ~~Law, sections 204(b) and 301(10) of the act of October 15, 1980~~
6 ~~(P.L.950, No.164), known as the Commonwealth Attorneys Act, or~~
7 ~~the act of June 25, 1982 (P.L.633, No.181), known as the~~
8 ~~Regulatory Review Act. All guidelines shall expire no later than~~
9 ~~December 31, 2013, and shall be replaced by regulations which~~
10 ~~shall have been promulgated, adopted and published as provided~~
11 ~~under law.}~~

12 ~~Section 4. Subchapter C heading of Chapter 46 of Title 3 is~~
13 ~~amended to read:~~

14 ~~SUBCHAPTER C~~

15 ~~{(Reserved)}~~

16 ~~Pennsylvania Preferred Organic® Program~~

17 ~~Section 5. Subchapter C of Chapter 46 of Title 3 is amended~~
18 ~~by adding sections to read:~~

19 ~~§ 4621. Pennsylvania Preferred Organic® Program.~~

20 ~~The department shall establish, administer and operate a~~
21 ~~Pennsylvania Preferred Organic® Program.~~

22 ~~§ 4622. Pennsylvania Preferred Organic® trademark.~~

23 ~~The department shall take all actions necessary and~~
24 ~~appropriate to acquire, create, establish, register, maintain,~~
25 ~~license, promote and protect a Pennsylvania Preferred Organic®~~
26 ~~trademark for use on or in connection with the sale, marketing~~
27 ~~or promotion of a Pennsylvania produced agricultural organic~~
28 ~~commodity.~~

29 ~~§ 4623. Purpose.~~

30 ~~The purposes of this subchapter is to:~~

1 ~~(1) Establish a program under which qualified producers,~~
2 ~~processors and marketers of Pennsylvania produced organic~~
3 ~~agricultural commodities can be licensed by the department to~~
4 ~~make use of the Pennsylvania Preferred Organic® trademark~~
5 ~~with respect to agricultural organic products.~~

6 ~~(2) Establish licensure standards that require qualified~~
7 ~~producers described under paragraph (1) to meet or exceed the~~
8 ~~standards required under the USDA National Organic Production~~
9 ~~Program.~~

10 ~~(3) Establish the Pennsylvania Preferred Organic®~~
11 ~~trademark as a symbol of product quality and of organic~~
12 ~~production in accordance with rigorous, scientific standards~~
13 ~~for production of organic agricultural commodities.~~

14 ~~(4) Provide added product value for licensed qualified~~
15 ~~entities that make use of the Pennsylvania Preferred Organic®~~
16 ~~trademark.~~

17 ~~(5) Encourage producers of Pennsylvania produced organic~~
18 ~~agricultural commodities to, as a desirable business measure,~~
19 ~~meet or exceed USDA National Organic Production Program~~
20 ~~standards and to pursue licensure to make use of the~~
21 ~~Pennsylvania Preferred Organic® trademark.~~

22 ~~(6) Provide the department, the advisory committee~~
23 ~~established under section 4624 (relating to Pennsylvania~~
24 ~~Preferred Organic® Advisory Committee) and this~~
25 ~~Commonwealth's organic producers greater familiarity with the~~
26 ~~requirements of the USDA National Organic Production Program~~
27 ~~and, in time, pursue USDA approval of the Pennsylvania~~
28 ~~Preferred Organic® Program as the official organics program~~
29 ~~in this Commonwealth.~~

30 ~~(7) Encourage organic production and organic soil~~

~~building practices that enhance biodiversity, conserve natural resources and contribute to other public and environmental health benefits.~~

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

~~§ 4624. Pennsylvania Preferred Organic® Advisory Committee.~~

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

~~(b) Membership.~~

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

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

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

~~(iii) Two members shall be processors.~~

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

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

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

~~The following shall apply:~~

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

~~(B) The consumer representative shall be a~~

~~member or employee of representatives of recognized nonprofit organizations whose principal purpose is the protection of consumer health.~~

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

~~(A) The environmental representative may not have a financial interest in the direct sales or marketing of the organic product industry.~~

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

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

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

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

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

~~(2) Except for the consumer, environmental and technical representatives described in paragraph (1) (vi), (vii) and (viii), the members of the advisory committee shall have derived a substantial portion of their business income, wages~~

~~or salary from services that the members provide that directly result in the production, handling, processing or retailing of products sold as organic for at least three years preceding the appointment to the advisory committee.~~

~~(c) Duties. The advisory committee shall have the following duties:~~

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

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

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

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

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

~~§ 4625. Standards.~~

~~(a) Organic standards. The organic food or product~~

~~1 regulations adopted under 7 U.S.C. § 6521 (relating to~~
~~2 administration) that are in effect on the effective date of this~~
~~3 section, or that are adopted after the effective date of this~~
~~4 section, shall be the organic standards under which the~~
~~5 department licenses qualified entities to make use of the~~
~~6 Pennsylvania Preferred Organic® trademark with respect to~~
~~7 Pennsylvania produced organic agricultural commodities, except~~
~~8 to the extent that the department promulgates regulatory~~
~~9 standards that vary from those Federal standards.~~

~~10 (b) Regulatory standards. The secretary may, by regulation,~~
~~11 prescribe standards under which the department shall license~~
~~12 qualified entities to make use of the Pennsylvania Preferred~~
~~13 Organic® trademark with respect to Pennsylvania produced organic~~
~~14 agricultural commodities that vary from regulatory standards~~
~~15 promulgated under the authority of subsection (a).~~

~~16 § 4626. Duties and authority of department.~~

~~17 (a) Department authority to enter into trademark license~~
~~18 agreements.~~

~~19 (1) The department may enter into a trademark license~~
~~20 agreement with a qualified entity.~~

~~21 (2) The terms and conditions shall require a licensee to~~
~~22 produce, process, promote or market an agricultural commodity~~
~~23 in a manner acceptable to the department which protects the~~
~~24 reputation of the Pennsylvania Preferred Organic® trademark.~~

~~25 (3) The department may periodically review a trademark~~
~~26 license agreement to determine if the terms are being met.~~

~~27 (b) Cooperative activities. The department may engage in~~
~~28 cooperative activities to implement and advance the purposes of~~
~~29 this chapter.~~

~~30 § 4627. Trademark license agreement, application and licensure~~

1 process.

2 ~~(a) Application for agreement.~~

3 ~~(1) A qualified entity may apply to be licensed to use~~
4 ~~the Pennsylvania Preferred Organic® trademark.~~

5 ~~(2) The application shall be on a form prepared by the~~
6 ~~department and include identification information and other~~
7 ~~information that the department deems necessary to determine~~
8 ~~if the applicant is a qualified entity.~~

9 ~~(3) The application form shall be provided by the~~
10 ~~department upon request.~~

11 ~~(4) The department shall have the discretion to~~
12 ~~determine whether a person is a qualified entity for purposes~~
13 ~~of this subchapter.~~

14 ~~(5) If the department determines that an applicant is a~~
15 ~~qualified entity, the department shall offer the qualified~~
16 ~~entity a trademark license agreement.~~

17 ~~(6) A trademark license agreement under this subchapter~~
18 ~~shall be effective for one year from the date upon which an~~
19 ~~agreement is executed and may be renewed. An agreement shall~~
20 ~~contain provisions allowing for the termination of the~~
21 ~~trademark license agreement by the department or a licensee~~
22 ~~upon 60 days' advance written notice to the other party.~~

23 ~~(b) Preexisting trademark license agreements. A trademark~~
24 ~~license agreement that is in effect prior to the effective date~~
25 ~~of this section and that authorizes the use of a Pennsylvania~~
26 ~~Preferred® trademark or Pennsylvania Preferred Organic®~~
27 ~~trademark shall remain in effect until it is terminated or until~~
28 ~~the end of the current contract year, whichever occurs first.~~

29 ~~§ 4628. Costs.~~

30 ~~Reimbursement of costs are as follows:~~

~~(1) The department may charge a licensee for costs incurred by the department in connection with that licensee's participation in an activity, trade show, exhibition or other promotional event conducted or facilitated by the department. A charge shall reasonably reflect the costs incurred by the department in facilitating the licensee's participation and may include such costs as proportional shares of event registration fees, equipment rental fees, display area rental fees and related costs.~~

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

~~§ 4629. Civil penalties.~~

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

~~§ 4630. Injunctive relief.~~

~~In addition to any other remedies provided for under this subchapter, the Attorney General, at the request of the department, may initiate, in the Commonwealth Court or the court of common pleas of the county in which the defendant resides or has a place of business, an action in equity for an injunction to restrain violations of this chapter or a trademark license agreement. In the proceeding, the court shall, upon motion of the Commonwealth, issue a preliminary injunction if it finds~~

~~1 that the defendant is engaging in unlawful conduct under this
2 subchapter or is engaging in conduct which is causing immediate
3 or irreparable harm to the public. The Commonwealth shall not be
4 required to furnish bond or other security in connection with
5 the proceedings. In addition to an injunction, the court, in
6 equity proceedings, may levy civil penalties as provided under
7 section 4629 (relating to civil penalties).~~

8 ~~Section 6. This act shall take effect in 60 days.~~

9 SECTION 1. THE DEFINITIONS OF "LICENSEE" AND "QUALIFIED <--
10 ENTITY" IN SECTION 4602 OF TITLE 3 OF THE PENNSYLVANIA
11 CONSOLIDATED STATUTES ARE AMENDED AND THE SECTION IS AMENDED BY
12 ADDING DEFINITIONS TO READ:

13 § 4602. DEFINITIONS.

14 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS CHAPTER
15 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE
16 CONTEXT CLEARLY INDICATES OTHERWISE:

17 * * *

18 "LICENSEE." A QUALIFIED ENTITY THAT IS SUBJECT TO A
19 [CURRENT] PENNSYLVANIA PREFERRED® TRADEMARK OR PENNSYLVANIA
20 PREFERRED ORGANIC® TRADEMARK LICENSE AGREEMENT WITH THE
21 DEPARTMENT.

22 "ORGANIC AGRICULTURAL COMMODITY." AN AGRICULTURAL COMMODITY
23 THAT MEETS THE DEFINITION OF "ORGANICALLY PRODUCED" UNDER 7
24 U.S.C. CH. 94 (RELATING TO ORGANIC CERTIFICATION).

25 "PENNSYLVANIA PREFERRED ORGANIC® TRADEMARK." ONE OR MORE
26 TRADEMARKS THAT CONSIST OF THE PHRASE "PENNSYLVANIA PREFERRED
27 ORGANIC" OR "PA PREFERRED ORGANIC," AND THAT MAY INCLUDE
28 SPECIFIC GRAPHIC DESIGNS OR ARTWORK AS PART OF THE TRADEMARK
29 REGISTRATION AND WHICH IS USED TO IDENTIFY A PENNSYLVANIA-
30 PRODUCED ORGANIC AGRICULTURAL COMMODITY.

1 * * *

2 "QUALIFIED ENTITY." A PERSON THAT PRODUCES, PROCESSES,
3 PREPARES, SELLS, OFFERS FOR SALE, MARKETS, PROMOTES OR IS
4 INVOLVED WITH ANY ASPECT OF PRODUCTION, PROCESSING, PREPARATION,
5 PROMOTION, MARKETING, SALE OR OFFERING FOR SALE OF A
6 PENNSYLVANIA-PRODUCED AGRICULTURAL [COMMODITIES] COMMODITY OR
7 PENNSYLVANIA-PRODUCED ORGANIC AGRICULTURAL COMMODITY.

8 "QUALIFIED VETERAN." A QUALIFIED ENTITY THAT:

9 (1) IS A VETERAN OF ONE OR MORE OF THE ARMED FORCES OF
10 THE UNITED STATES, INCLUDING THE UNITED STATES ARMY, THE
11 UNITED STATES NAVY, THE UNITED STATES MARINE CORPS, THE
12 UNITED STATES AIR FORCE OR THE UNITED STATES COAST GUARD; AND

13 (2) HAS RECEIVED AN HONORABLE DISCHARGE OR A GENERAL
14 DISCHARGE UNDER HONORABLE CONDITIONS.

15 "QUALIFIED VETERAN BUSINESS ENTITY." A QUALIFIED ENTITY TO
16 WHICH:

17 (1) THE ENTITY IS A CORPORATION, PARTNERSHIP,
18 ASSOCIATION OR OTHER BUSINESS ORGANIZATION.

19 (2) QUALIFIED VETERANS MAKE UP 50% OR MORE OF THE
20 ENTITY'S OWNERSHIP AND A MINIMUM OF 50% OF THE ENTITY'S
21 MANAGEMENT CONTROL.

22 * * *

23 SECTION 2. SECTIONS 4611, 4612, 4613(A)(2), 4614(A)(1),
24 4615(2), 4616, 4618, 4619 AND 4631 OF TITLE 3 ARE AMENDED TO
25 READ:

26 § 4611. PENNSYLVANIA PREFERRED® TRADEMARK AND PENNSYLVANIA
27 PREFERRED ORGANIC® TRADEMARK.

28 THE DEPARTMENT [SHALL] MAY TAKE ALL ACTIONS NECESSARY AND
29 APPROPRIATE TO ACQUIRE, CREATE, ESTABLISH, REGISTER, MAINTAIN,
30 LICENSE, PROMOTE AND PROTECT A PENNSYLVANIA PREFERRED® TRADEMARK

1 OR PENNSYLVANIA PREFERRED ORGANIC® TRADEMARK FOR USE ON OR IN
2 CONNECTION WITH THE SALE, MARKETING OR PROMOTION OF A
3 PENNSYLVANIA-PRODUCED AGRICULTURAL COMMODITY OR A PENNSYLVANIA-
4 PRODUCED ORGANIC AGRICULTURAL COMMODITY.

5 § 4612. LICENSEE QUALIFICATION.

6 A QUALIFIED ENTITY SHALL MEET AT LEAST ONE OF THE FOLLOWING
7 REQUIREMENTS TO BECOME A LICENSEE:

8 (1) BE A PERSON THAT PRODUCES AN AGRICULTURAL COMMODITY
9 OR AN ORGANIC AGRICULTURAL COMMODITY:

10 (I) THAT IS ENTIRELY HARVESTED FROM A PENNSYLVANIA
11 LOCATION OR IS GROWN AT A PENNSYLVANIA LOCATION FOR AT
12 LEAST 75% OF THE COMMODITY'S PRODUCTION CYCLE; AND

13 (II) THAT, IF INSPECTED BY THE DEPARTMENT, THE USDA,
14 THE FDA OR AN INDEPENDENT CERTIFYING AGENCY APPROVED BY
15 THE DEPARTMENT, IS APPROVED BY THE INSPECTING AUTHORITY
16 AS MEETING ALL APPLICABLE QUALITY, SANITATION, SAFETY AND
17 LABELING STANDARDS OF THAT INSPECTING AUTHORITY.

18 (2) BE A PERSON THAT PROCESSES AN AGRICULTURAL COMMODITY
19 OR AN ORGANIC AGRICULTURAL COMMODITY:

20 (I) IN WHOLE OR IN PART AT A FACILITY WHICH IS
21 LOCATED WITHIN THIS COMMONWEALTH; AND

22 (II) IN WHOLE OR IN PART AT A FACILITY, WHICH, IF
23 THE AGRICULTURAL COMMODITY OR ORGANIC AGRICULTURAL
24 COMMODITY IS INTENDED FOR HUMAN CONSUMPTION, IS IN
25 COMPLIANCE WITH SUBCHAPTER B OF CHAPTER 57 (RELATING TO
26 FOOD SAFETY) AND ALL APPLICABLE FEDERAL AND STATE FOOD
27 QUALITY, SANITATION, SAFETY AND LABELING STANDARDS
28 REGULATIONS; AND

29 (III) [THE USE OF WHICH, TO THE MAXIMUM EXTENT
30 POSSIBLE GIVEN PRODUCTION SEASON RESTRICTIONS OR MARKET

1 AVAILABILITY, IS A] WHICH IS COMPRISED OF AT LEAST 75% OF
2 A PENNSYLVANIA-PRODUCED AGRICULTURAL COMMODITY OR A
3 PENNSYLVANIA-PRODUCED ORGANIC AGRICULTURAL COMMODITY.

4 (3) BE A PERSON THAT PROMOTES OR MARKETS AN AGRICULTURAL
5 COMMODITY OR AN ORGANIC AGRICULTURAL COMMODITY FROM A PERSON
6 THAT MEETS THE PROVISIONS OF PARAGRAPH (1) OR (2).

7 (4) BE A PUBLIC EATING AND DRINKING PLACE LICENSED UNDER
8 AND IN COMPLIANCE WITH SUBCHAPTER A OF CHAPTER 57 (RELATING
9 TO RETAIL FOOD FACILITY SAFETY) OR UNDER THE ACT OF AUGUST
10 24, 1951 (P.L.1304, NO.315), KNOWN AS THE LOCAL HEALTH
11 ADMINISTRATION LAW, WHICH OFFERS A MENU ITEM THAT INCLUDES AN
12 AGRICULTURAL COMMODITY OR AN ORGANIC AGRICULTURAL COMMODITY
13 FROM A PERSON THAT MEETS THE PROVISIONS OF PARAGRAPH (1) OR
14 (2).

15 (5) BE A PERSON APPROVED BY THE DEPARTMENT TO USE AND
16 PROMOTE THE USE OF THE PENNSYLVANIA PREFERRED® TRADEMARK OR
17 PENNSYLVANIA PREFERRED ORGANIC® TRADEMARK TO CONSTITUENCIES
18 IN FURTHERING THE PURPOSES OF THIS CHAPTER.

19 § 4613. DUTIES AND AUTHORITY OF DEPARTMENT.

20 (A) DEPARTMENT AUTHORITY TO ENTER INTO TRADEMARK LICENSE
21 AGREEMENTS.--

22 * * *

23 (2) THE DEPARTMENT SHALL ESTABLISH THE TERMS AND
24 CONDITIONS UNDER WHICH A PERSON MAY BE LICENSED TO USE THE
25 PENNSYLVANIA PREFERRED® TRADEMARK OR PENNSYLVANIA PREFERRED
26 ORGANIC® TRADEMARK. TERMS AND CONDITIONS SHALL REQUIRE A
27 LICENSEE TO PRODUCE, PROCESS, PROMOTE OR MARKET AN
28 AGRICULTURAL COMMODITY OR AN ORGANIC AGRICULTURAL COMMODITY
29 IN A MANNER ACCEPTABLE TO THE DEPARTMENT WHICH PROTECTS THE
30 REPUTATION OF THE PENNSYLVANIA PREFERRED® TRADEMARK OR

1 PENNSYLVANIA PREFERRED ORGANIC® TRADEMARK.

2 * * *

3 § 4614. TRADEMARK LICENSE AGREEMENT, APPLICATION AND LICENSURE
4 PROCESS.

5 (A) GENERAL RULE.--

6 (1) A QUALIFIED ENTITY MAY APPLY TO BE LICENSED TO USE
7 THE PENNSYLVANIA PREFERRED® TRADEMARK OR PENNSYLVANIA
8 PREFERRED ORGANIC® TRADEMARK.

9 * * *

10 § 4615. COSTS.

11 REIMBURSEMENT OF COSTS ARE AS FOLLOWS:

12 * * *

13 (2) THE DEPARTMENT MAY CHARGE A LICENSEE FOR COSTS OF
14 PENNSYLVANIA PREFERRED® OR PENNSYLVANIA PREFERRED ORGANIC®
15 PROMOTIONAL MATERIALS PROVIDED BY THE DEPARTMENT AT THE
16 REQUEST OF THE LICENSEE.

17 § 4616. PENNSYLVANIA PREFERRED® TRADEMARK AND PENNSYLVANIA
18 PREFERRED ORGANIC® TRADEMARK LICENSING FUND.

19 (A) ESTABLISHMENT.--THERE IS ESTABLISHED IN THE STATE
20 TREASURY A SPECIAL FUND WHICH SHALL BE AN INTEREST-BEARING
21 RESTRICTED REVENUE ACCOUNT TO BE KNOWN AS THE PENNSYLVANIA
22 PREFERRED® TRADEMARK AND PENNSYLVANIA PREFERRED ORGANIC®
23 TRADEMARK LICENSING FUND. THE FOLLOWING MONEY SHALL BE DEPOSITED
24 INTO THE FUND:

25 (1) MONEY AS IS APPROPRIATED, GIVEN, GRANTED OR DONATED
26 FOR THE PURPOSE ESTABLISHED UNDER THIS CHAPTER BY THE FEDERAL
27 GOVERNMENT, THE COMMONWEALTH OR ANY OTHER GOVERNMENT OR
28 PRIVATE AGENCY OR PERSON.

29 (2) FUNDS DERIVED FROM THE COSTS ESTABLISHED UNDER
30 SECTION 4615 (RELATING TO COSTS).

1 (3) FUNDS DERIVED FROM CIVIL PENALTIES COLLECTED BY THE
2 DEPARTMENT UNDER SECTION 4617 (RELATING TO CIVIL PENALTIES).

3 (B) APPROPRIATION.--MONEY IN THE FUND IS APPROPRIATED ON A
4 CONTINUING BASIS TO THE DEPARTMENT FOR THE PURPOSE OF
5 ADMINISTERING THIS CHAPTER. ALL INTEREST AND EARNINGS RECEIVED
6 FROM INVESTMENT OR DEPOSIT OF THE MONEY IN THE FUND SHALL BE
7 PAID INTO THE ACCOUNT FOR THE PURPOSE AUTHORIZED BY THIS
8 SECTION. ANY UNEXPENDED MONEY AND ANY INTEREST OR EARNINGS ON
9 THE MONEY IN THE FUND MAY NOT BE TRANSFERRED OR REVERT TO THE
10 GENERAL FUND, BUT SHALL REMAIN IN THE ACCOUNT TO BE USED BY THE
11 DEPARTMENT FOR THE PURPOSE SPECIFIED UNDER THIS SECTION.

12 (C) USE.--MONEY DEPOSITED IN THE FUND SHALL BE USED AS
13 FOLLOWS:

14 (1) TO PROMOTE THE LICENSURE AND USE OF THE PENNSYLVANIA
15 PREFERRED® TRADEMARK OR PENNSYLVANIA PREFERRED ORGANIC®
16 TRADEMARK WITH RESPECT TO PENNSYLVANIA-PRODUCED AGRICULTURAL
17 COMMODITIES OR PENNSYLVANIA-PRODUCED ORGANIC AGRICULTURAL
18 COMMODITIES.

19 (2) TO PROMOTE THE PENNSYLVANIA PREFERRED® TRADEMARK AND
20 THE PENNSYLVANIA PREFERRED ORGANIC® TRADEMARK AS AN
21 IDENTIFICATION OF ORIGIN AND QUALITY.

22 (3) TO PROMOTE PENNSYLVANIA-PRODUCED AGRICULTURAL
23 COMMODITIES WITH RESPECT TO WHICH THE PENNSYLVANIA PREFERRED®
24 TRADEMARK IS [LICENSED.] USED AND INCREASE THE NUMBER OF
25 QUALIFIED ENTITIES WHICH USE THE PENNSYLVANIA PREFERRED®
26 TRADEMARK.

27 (3.1) TO PROMOTE PENNSYLVANIA-PRODUCED ORGANIC
28 AGRICULTURAL COMMODITIES WITH RESPECT TO WHICH THE
29 PENNSYLVANIA PREFERRED ORGANIC® TRADEMARK IS USED AND
30 INCREASE THE NUMBER OF QUALIFIED ENTITIES THAT USE THE

1 PENNSYLVANIA PREFERRED ORGANIC® TRADEMARK.

2 (4) TO PAY COSTS ASSOCIATED WITH MONITORING THE USE OF
3 THE PENNSYLVANIA PREFERRED® TRADEMARK AND PENNSYLVANIA
4 PREFERRED ORGANIC® TRADEMARK, PROHIBITING THE UNLAWFUL OR
5 UNAUTHORIZED USE OF THE [TRADEMARK] TRADEMARKS AND ENFORCING
6 RIGHTS IN THE [TRADEMARK] TRADEMARKS.

7 (4.1) TO PROMOTE PARTICIPATION UNDER THIS CHAPTER BY
8 QUALIFIED VETERANS AND QUALIFIED VETERAN BUSINESS ENTITIES.

9 (4.2) TO PROMOTE, ENCOURAGE AND FACILITATE COOPERATION
10 BY THE DEPARTMENT WITH MILITARY, GOVERNMENT OR PRIVATE SECTOR
11 MARKETING EFFORTS THAT IDENTIFY, EMPHASIZE AND ENCOURAGE THE
12 PRODUCTION AND MARKETING OF PENNSYLVANIA-PRODUCED
13 AGRICULTURAL COMMODITIES OR PENNSYLVANIA-PRODUCED ORGANIC
14 AGRICULTURAL COMMODITIES BY QUALIFIED VETERANS AND QUALIFIED
15 VETERAN BUSINESS ENTITIES.

16 (5) TO OTHERWISE FUND THE DEPARTMENT'S COSTS IN
17 ADMINISTERING AND ENFORCING THIS CHAPTER.

18 [(D) DEFINITIONS.--AS USED IN THIS SECTION, THE FOLLOWING
19 WORDS AND PHRASES SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS
20 SUBSECTION UNLESS THE CONTEXT CLEARLY INDICATES OTHERWISE:]

21 "QUALIFIED VETERAN." AS DEFINED UNDER SECTION 4632 (RELATING
22 TO DEFINITIONS).

23 "QUALIFIED VETERAN BUSINESS ENTITY." AS DEFINED UNDER
24 SECTION 4632.]

25 (E) GRANTS.--THE DEPARTMENT MAY USE MONEY DEPOSITED INTO THE
26 PENNSYLVANIA PREFERRED® TRADEMARK AND PENNSYLVANIA PREFERRED
27 ORGANIC® TRADEMARK LICENSING FUND TO PROMOTE ONE OR MORE OF THE
28 FUNDING OBJECTIVES UNDER SUBSECTION (C) THROUGH THE AWARDING OF
29 GRANTS.

30 § 4618. INJUNCTIVE RELIEF.

1 IN ADDITION TO ANY OTHER REMEDIES PROVIDED FOR UNDER THIS
2 CHAPTER, THE DEPARTMENT OR THE ATTORNEY GENERAL, AT THE REQUEST
3 OF THE DEPARTMENT, MAY INITIATE, IN THE [COMMONWEALTH COURT OR
4 THE COURT OF COMMON PLEAS OF THE COUNTY IN WHICH THE DEFENDANT
5 RESIDES OR HAS HIS PLACE OF BUSINESS] COURT OF COMMON PLEAS IN
6 DAUPHIN COUNTY, AN ACTION IN EQUITY FOR AN INJUNCTION TO
7 RESTRAIN VIOLATIONS OF THIS CHAPTER OR A TRADEMARK LICENSE
8 AGREEMENT. IN THE PROCEEDING, THE COURT SHALL, UPON MOTION OF
9 THE COMMONWEALTH, ISSUE A PRELIMINARY INJUNCTION IF IT FINDS
10 THAT THE DEFENDANT IS ENGAGING IN UNLAWFUL CONDUCT UNDER THIS
11 CHAPTER OR IS ENGAGING IN CONDUCT WHICH IS CAUSING IMMEDIATE OR
12 IRREPARABLE HARM TO THE PUBLIC. THE COMMONWEALTH SHALL NOT BE
13 REQUIRED TO FURNISH BOND OR OTHER SECURITY IN CONNECTION WITH
14 THE PROCEEDINGS. IN ADDITION TO AN INJUNCTION, THE COURT, IN
15 EQUITY PROCEEDINGS, MAY LEVY CIVIL PENALTIES AS PROVIDED UNDER
16 SECTION 4617 (RELATING TO CIVIL PENALTIES).

17 § 4619. RULES AND REGULATIONS.

18 THE DEPARTMENT SHALL PROMULGATE RULES AND REGULATIONS
19 NECESSARY TO PROMOTE THE EFFICIENT, UNIFORM AND STATEWIDE
20 ADMINISTRATION OF THIS CHAPTER. FOR TWO YEARS FROM THE EFFECTIVE
21 DATE OF THIS SECTION, THE DEPARTMENT SHALL HAVE THE POWER AND
22 AUTHORITY TO PROMULGATE, ADOPT AND USE GUIDELINES TO IMPLEMENT
23 THE PROVISIONS OF THIS CHAPTER. THE GUIDELINES SHALL BE
24 PUBLISHED IN THE PENNSYLVANIA BULLETIN BUT SHALL NOT BE SUBJECT
25 TO REVIEW UNDER SECTION 205 OF THE ACT OF JULY 31, 1968
26 (P.L.769, NO.240), REFERRED TO AS THE COMMONWEALTH DOCUMENTS
27 LAW, SECTIONS 204(B) AND 301(10) OF THE ACT OF OCTOBER 15, 1980
28 (P.L.950, NO.164), KNOWN AS THE COMMONWEALTH ATTORNEYS ACT, OR
29 THE ACT OF JUNE 25, 1982 (P.L.633, NO.181), KNOWN AS THE
30 REGULATORY REVIEW ACT. ALL GUIDELINES SHALL EXPIRE NO LATER THAN

1 DECEMBER 31, [2013] 2025, AND SHALL BE REPLACED BY REGULATIONS
2 WHICH SHALL HAVE BEEN PROMULGATED, ADOPTED AND PUBLISHED AS
3 PROVIDED UNDER LAW.

4 § 4631. PURPOSE.

5 THE PURPOSE OF THIS SUBCHAPTER IS TO:

6 (1) BENEFIT QUALIFIED VETERANS AND QUALIFIED VETERAN
7 BUSINESS ENTITIES THAT ARE LICENSED BY THE DEPARTMENT UNDER
8 SUBCHAPTER B (RELATING TO PENNSYLVANIA PREFERRED® PROGRAM) BY
9 ALLOWING AND ENCOURAGING THE USE OF OTHER TRADEMARKS OR
10 DESCRIPTIVE LABELS, PACKAGING OR ADVERTISEMENT INFORMATION TO
11 INFORM CONSUMERS THAT AGRICULTURAL COMMODITIES OR ORGANIC
12 AGRICULTURAL COMMODITIES WERE PRODUCED BY VETERANS OF THE
13 ARMED FORCES OF THE UNITED STATES.

14 (2) ENCOURAGE QUALIFIED VETERANS AND QUALIFIED VETERAN
15 BUSINESS ENTITIES TO AVAIL THEMSELVES OF MARKETING
16 OPPORTUNITIES FOR PENNSYLVANIA-PRODUCED AGRICULTURAL
17 COMMODITIES OR PENNSYLVANIA-PRODUCED ORGANIC AGRICULTURAL
18 COMMODITIES THROUGH LICENSURE UNDER SUBCHAPTER B AND
19 PARTNERSHIP WITH ORGANIZATIONS SUCH AS THE FARMER VETERAN
20 COALITION HOMEGROWN BY HEROES PROGRAM AND SIMILAR PROGRAMS
21 INTENDED TO ENCOURAGE VETERANS TO FARM OR TO OTHERWISE
22 BENEFIT FARMERS WHO ARE VETERANS.

23 SECTION 3. SECTION 4632 OF TITLE 3 IS REPEALED:

24 [§ 4632. DEFINITIONS.

25 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS SUBCHAPTER
26 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE
27 CONTEXT CLEARLY INDICATES OTHERWISE:

28 "QUALIFIED VETERAN." A QUALIFIED ENTITY WHO:

29 (1) IS A VETERAN OF ONE OR MORE OF THE ARMED FORCES OF
30 THE UNITED STATES, INCLUDING THE UNITED STATES ARMY, THE

1 UNITED STATES NAVY, THE UNITED STATES MARINE CORPS, THE
2 UNITED STATES AIR FORCE OR THE UNITED STATES COAST GUARD; AND
3 (2) HAS RECEIVED AN HONORABLE DISCHARGE OR A GENERAL
4 DISCHARGE UNDER HONORABLE CONDITIONS.

5 "QUALIFIED VETERAN BUSINESS ENTITY." A QUALIFIED ENTITY TO
6 WHICH THE FOLLOWING APPLY:

7 (1) THE ENTITY IS A CORPORATION, PARTNERSHIP,
8 ASSOCIATION OR OTHER BUSINESS ORGANIZATION.

9 (2) QUALIFIED VETERANS MAKE UP 50% OR MORE OF THE
10 ENTITY'S OWNERSHIP AND A MINIMUM OF 50% OF THE ENTITY'S
11 MANAGEMENT CONTROL.]

12 SECTION 4. SECTION 4633(B) OF TITLE 3 IS AMENDED TO READ:

13 § 4633. QUALIFIED VETERANS AND QUALIFIED VETERAN BUSINESS
14 ENTITIES.

15 * * *

16 (B) COORDINATION OF EFFORT.--THE DEPARTMENT SHALL COOPERATE
17 WITH MILITARY, GOVERNMENT OR PRIVATE SECTOR MARKETING EFFORTS
18 THAT IDENTIFY, EMPHASIZE AND ENCOURAGE THE PRODUCTION AND
19 MARKETING OF PENNSYLVANIA-PRODUCED AGRICULTURAL COMMODITIES OR
20 PENNSYLVANIA-PRODUCED ORGANIC AGRICULTURAL COMMODITIES BY
21 QUALIFIED VETERANS AND QUALIFIED VETERAN BUSINESS ENTITIES AND
22 MAY ALLOW THE USE OF THE PENNSYLVANIA PREFERRED® TRADEMARK OR
23 PENNSYLVANIA PREFERRED ORGANIC® TRADEMARK IN A COOPERATIVE
24 EFFORT.

25 SECTION 5. THIS ACT SHALL TAKE EFFECT IN 60 DAYS.