
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1297 Session of
2024

INTRODUCED BY VOGEL, SCHWANK, COSTA, MASTRIANO, BAKER, CULVER,
KANE AND DUSH, JULY 17, 2024

REFERRED TO AGRICULTURE AND RURAL AFFAIRS, JULY 17, 2024

AN ACT

1 Amending the act of April 28, 1937 (P.L.417, No.105), entitled,
2 as amended, "An act relating to milk and the products
3 thereof; creating a Pennsylvania Milk Board; establishing its
4 jurisdiction, powers and duties; regulating the production,
5 transportation, manufacturing, processing, storage,
6 distribution, delivery and sale of milk and certain products
7 thereof; providing for the licensing of milk dealers and the
8 payment of fees therefor; requiring milk dealers to file
9 bonds to secure payment for milk to producers and certain
10 milk dealers; authorizing the holding of hearings and the
11 issuance of subpoenas by the board; conferring jurisdiction
12 upon courts to punish contempts and to prohibit violations of
13 this act 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33 superseded by this act, and saving rights, duties and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 purpose, short title and definitions, further providing for
2 definitions and construction; in general powers of the board,
3 providing for collection of premiums; in prices of milk,
4 providing for board-established premiums and further
5 providing for cooperatives; and, in moneys and expenses of
6 board, further providing for Milk Marketing Fund and for
7 payment and providing for audits.

8 The General Assembly of the Commonwealth of Pennsylvania
9 hereby enacts as follows:

10 Section 1. Section 103 of the act of April 28, 1937
11 (P.L.417, No.105), known as the Milk Marketing Law, is amended
12 by adding a definition to read:

13 Section 103. Definitions; Construction.--The following terms
14 shall be construed in this act to have the following meanings,
15 except in those instances where the context clearly indicates
16 otherwise:

17 * * *

18 "Board-established premium" means a fee or charge established
19 by official order of the board on Class 1 fluid milk.

20 * * *

21 Section 2. The act is amended by adding sections to read:

22 Section 312. Collection of Premiums.--(a) The board is
23 hereby vested with the power to coordinate, facilitate or
24 establish the collection and distribution of board-established
25 premiums in accordance with section 801.1.

26 (b) For the purposes of subsection (a), the board shall
27 coordinate with the Department of Revenue and the Department of
28 Revenue shall facilitate the collection of board-established
29 premiums.

30 Section 801.1. Board-Established Premiums.--(a) The board
31 may fix, by official order, a board-established premium based on
32 evidence presented on cost of production, price received and
33 return on equity.

1 (b) The board shall submit an official order under
2 subsection (a) and section 1104(b) to the Agriculture and Rural
3 Affairs Committee of the Senate and the Agriculture and Rural
4 Affairs Committee of the House of Representatives for review
5 based on the criteria specified under subsection (a) and section
6 1104(b).

7 (c) The Agriculture and Rural Affairs Committee of the
8 Senate shall, within thirty calendar days or six legislative
9 session days, whichever is later, from receipt of an official
10 order under subsection (b) notify the board that the Agriculture
11 and Rural Affairs Committee of the Senate has approved or
12 disapproved the official order. The Agriculture and Rural
13 Affairs Committee of the House of Representatives shall, within
14 thirty calendar days or six legislative session days, whichever
15 is later, from receipt of an official order under subsection (b)
16 notify the board that the Agriculture and Rural Affairs
17 Committee of the House of Representatives has approved or
18 disapproved the official order. If the Agriculture and Rural
19 Affairs Committee of the Senate or the Agriculture and Rural
20 Affairs Committee of the House of Representatives do not notify
21 the board of a disapproval of the official order by the deadline
22 specified under this subsection, the official order shall be
23 deemed approved. As used in this subsection, the term
24 "legislative session day" means any day when the Senate or the
25 House of Representatives is in session.

26 (d) The board shall transmit to the Legislative Reference
27 Bureau for publication in the next available issue of the
28 Pennsylvania Bulletin notice of an official order approved or
29 deemed approved under subsection (c). A board-established
30 premium shall take effect upon publication in the Pennsylvania

1 Bulletin.

2 (e) An official order under subsection (a) shall be exempt
3 from the following:

4 (1) Section 612 of the act of April 9, 1929 (P.L.177,
5 No.175), known as "The Administrative Code of 1929."

6 (2) Article II of the act of July 31, 1968 (P.L.769,
7 No.240), referred to as the Commonwealth Documents Law.

8 (3) Section 204(b) of the act of October 15, 1980 (P.L.950,
9 No.164), known as the "Commonwealth Attorneys Act."

10 (4) The act of June 25, 1982 (P.L.633, No.181), known as the
11 "Regulatory Review Act."

12 Section 3. Sections 809 and 1101 of the act are amended to
13 read:

14 Section 809. Cooperatives.--(a) It is hereby declared to be
15 the legislative intent that no provision of this act shall
16 prevent, and no provision contained herein shall be deemed or
17 construed to prevent, any cooperative agricultural association
18 or corporation organized under the laws of this Commonwealth, or
19 a similar association or corporation organized under the laws of
20 this or any other state, and engaged in making collective sales
21 or in the marketing of milk for the producers thereof, from
22 blending the net proceeds of its sales or consignments or
23 deliveries in all its markets or of its sales or deliveries
24 within any particular market in various classes and whether in
25 fluid form or as manufactured products, both within and without
26 the Commonwealth, and paying its producers such blended price,
27 with such deductions and differentials as may be authorized
28 under contract between such association or corporation, and its
29 producers, and with prior written approval of the board, or from
30 making collective sales of the milk of its members and other

1 producers represented by it, or from making such sales or
2 deliveries at a blended price based upon sales or deliveries
3 thereof in the various classes, and whether in fluid form or as
4 manufactured products, both within and without the Commonwealth,
5 which price is to be paid either directly to the producers or to
6 the cooperative agricultural association or corporation. Nothing
7 herein contained shall prevent any milk dealer or handler from
8 contracting for his milk with such cooperative agricultural
9 association or corporation, upon such basis; but all such
10 contracts shall be upon the basis of the prices fixed by the
11 board, with the result that the net price received for milk by
12 such cooperative association or corporation shall be
13 commensurate with such prices. No director or officer of a
14 cooperative association or corporation shall offer, nor shall
15 milk dealers or handlers, or agents thereof, receive from any
16 producer or from such cooperative association or corporation,
17 directly or indirectly, any discounts, rebates, free service, or
18 compensation through rentals, extension of credit, or otherwise
19 for the purpose or with the effect, of reducing the net cost to
20 the dealer or handler for milk purchased or received by or
21 through such cooperative association or corporation.

22 (b) No provision of this act shall be deemed or construed to
23 affect the contracts of such cooperative agricultural
24 association or corporation with its producers, except as
25 hereinafter specifically provided, nor to affect or abridge the
26 rights and powers of such an association or any of its
27 operations: Provided, however, That the powers of subpoena,
28 entry, and inspection, vested in the board under this act, shall
29 apply for the purpose of examining and auditing books and
30 records of any such cooperative agricultural association or

1 corporation, at reasonable intervals, for the purpose of
2 administering this act. This section shall not, however, be
3 construed to exempt such association or corporation from the
4 jurisdiction of the board over [the] any of the following:

5 (1) The prices at which it may sell milk to milk dealers or
6 handlers, stores or consumers.

7 (2) The collection of board-established premiums under
8 section 312.

9 (3) The distribution of moneys under section 1104.

10 (4) The provisions of section 1107.

11 (c) Every cooperative agricultural association or
12 corporation operating under the provisions of this section shall
13 file with the board a copy of its certificate of incorporation
14 and by-laws, and a copy of each form of contract employed in its
15 relations with producers, within sixty (60) days after the
16 effective date of this act.

17 Section 1101. Milk Marketing Fund.--(a) All moneys
18 collected or received by the board, arising from license fees,
19 penalties, permits or any other source, shall be paid by the
20 board into the State Treasury through the Department of Revenue,
21 and shall, by the State Treasurer, be placed in a separate fund
22 to be known as the "Milk Marketing Fund." Fines imposed under
23 this act shall be payable to, and collected by, the board, and
24 similarly placed in the Milk Marketing Fund.

25 (b) Moneys collected or received by the board, that are not
26 funds of the Commonwealth, but are due to producers, dealers or
27 handlers for, or on account of, milk acquired or received by
28 dealers or handlers from producers or other dealers or handlers,
29 and placed in the Milk Marketing Fund, shall be paid to the
30 persons entitled thereto by the State Treasurer, as directed by

1 the board.

2 (c) Except for moneys described under subsection (b), the
3 board may direct the State Treasurer to transfer excess moneys
4 in the Milk Marketing Fund to the General Fund.

5 Section 4. Section 1104 of the act, amended November 6, 2023
6 (P.L.161, No.25), is amended to read:

7 Section 1104. Payment.--(a) Moneys in the Milk Marketing
8 Fund appropriated to the board shall be paid out upon warrant of
9 the State Treasurer drawn after requisition by the secretary of
10 the board.

11 (b) Moneys transferred from the General Fund to the Milk
12 Marketing Fund shall, by official order of the board, be
13 distributed by the board to producers, dealers or handlers in a
14 manner that accounts for cost of production, price received and
15 return on equity.

16 Section 5. The act is amended by adding a section to read:

17 Section 1107. Audits.--Moneys distributed to producers,
18 dealers or handlers under section 1104(b) shall be subject to an
19 audit by the board or its designee. The board or its designee
20 shall conduct an audit under this section within six months of
21 the first distributions under section 1104(b) and annually
22 thereafter.

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