

No. 217

AN ACT

To amend section one as amended, sections two and three, sections four and five as amended, and sections six, eight, nine, eleven, and twelve of, and to add section fourteen A to, the act, approved the sixth day of May, one thousand nine hundred and twenty-five (Pamphlet Laws, five hundred forty-one), entitled "An act providing for the protection of the public health and the prevention of fraud and deception by regulating the weighing, testing, buying, and selling of milk and cream; providing for the examination and appointment of certified testers and the issuing of licenses and making of tests; and providing penalties," further regulating the issuing of permits; prohibiting the taking of unfair and inaccurate samples; requiring licensed testers to keep certain records; prescribing fees for examinations; providing for tests for official inspections and records; further regulating the weighing and testing of milk and cream; providing for notices to parties affected by tests; providing for sales by butterfat test; and empowering the Secretary of Agriculture to adopt rules and regulations.

Section 1, act of May 6, 1925 (P. L. 541) as amended by act of April 7, 1927 (P. L. 158) further amended.

Section 1. Be it enacted, &c., That section one of the act, approved the sixth day of May, one thousand nine hundred and twenty-five (Pamphlet Laws, five hundred forty-one), entitled "An act providing for the protection of the public health and the prevention of fraud and deception by regulating the weighing, testing, buying, and selling of milk and cream; providing for the examination and appointment of certified testers and the issuing of licenses and making of tests; and providing penalties," as amended by the act, approved the seventh day of April one thousand nine hundred and twenty-seven (Pamphlet Laws, one hundred fifty-eight), is hereby further amended to read as follows:

Section 1. Be it enacted, &c., That every creamery, shipping station, milk factory, cheese factory, ice cream factory, or milk condensary, or person receiving, buying, and paying for milk or cream, regardless of the method of settlement, shall be required to hold a permit for each and every place where milk or cream is received by weight or measure: Provided, however, That nothing in this act shall apply to individuals buying milk or cream for private use, or to producers buying milk in emergencies to make up their regular supply, *or to persons buying from dealers already holding a permit*, or to hotels, restaurants, boarding houses, railroad dining cars, retail stores, or drug stores. The permit shall be issued by the Secretary of Agriculture to such creamery, shipping station, milk factory, cheese factory, ice cream factory, or milk condensary, or person, upon the payment of a fee of five dollars (\$5.00) and after filing of such information *and furnishing satisfactory evidence of good character of the applicant, if he be an individual, or of the members of the copartnership, if the applicant be a copartnership, or of the officers of the corporation or association, if the applicant be a corporation or an*

Purchase of milk and cream.

Permit.

Proviso.

Fee.

Filing of information necessary to secure permit.

association, as may be required by the Secretary of Agriculture. [All moneys so collected shall be used to meet the expenses of the Department of Agriculture in the enforcement of this act.] The permit shall be valid for a term of one calendar year and may be revoked by the Secretary of Agriculture for any violation of the provisions of this act. This permit issued hereunder shall be posted in plain view in the station for which it is issued.

Term of permit.

Permit must be posted.

Section 2. That sections two and three of said act are hereby amended to read as follows:

Sections 2 and 3 amended.

Section 2. It shall be unlawful for any person, association, copartnership, or corporation, their agents or servants, engaged in the business of buying milk or cream on the basis of, or in any manner with reference to, the amount or percentage of butterfat contained therein, *to take, collect, or use for testing purposes an unfair or inaccurate sample*, to under-read, over-read, or [otherwise fraudulently] *erroneously* manipulate the test commonly known as the "Babcock test" used for determining the percentage of such fat in said milk or cream, or to falsify the record thereof, or to make the "Babcock" reading except when the fat has a temperature of one hundred thirty-five degrees to one hundred forty-five degrees Fahrenheit, or to use for such test quantities other than seventeen and six-tenths (17.6) cubic centimeters in the case of milk and nine (9) grams or eighteen (18) grams in the case of cream. In all tests of cream the cream shall be weighed and not measured into the test bottle.

Unlawful to use unfair sample or manipulate butterfat test.

Section 3. No person, association, copartnership, or corporation purchasing milk or cream and paying for the same on the basis of the percentage of butterfat contained therein shall, if the percentage of butterfat is ascertained by the said "Babcock test," use any test glassware except standard Babcock test glassware [which has] *and weights which have* been previously inspected and approved by [the Bureau of Standards of] the Department of Internal Affairs. If the proportion of butterfat is determined by any method other than the "Babcock test," no utensil or instrument shall be used in such determination until the same has been inspected and approved by the Secretary of Agriculture or his agents.

Tests to be made with standard approved glassware and weights.

Section 3. That section four of said act, as amended by the act approved the seventh day of April, one thousand nine hundred and twenty-seven (Pamphlet Laws, one hundred fifty-eight), is hereby further amended to read as follows:

Section 4, as amended, further amended.

Section 4. Every person, association, copartnership, corporation, or agent or servant thereof, engaged in the business of receiving or buying milk or cream on the basis of, or in any way with reference to, the amount

Tests to be made only by licensed tester.

Record of tests to be kept.	of butterfat contained therein, or tests made for official inspection or public record, as determined by the "Babcock test," shall have the test or tests made only by a licensed tester, who shall be responsible for the same and who shall keep a proper record of all tests made, and a copy of such record shall be kept for a period of two years by the owner or manager of the plant.
Who is licensed tester.	For the purpose of this act a licensed tester is any person who, having furnished satisfactory evidence of good character and having passed a satisfactory examination in milk and cream testing conducted by the Pennsylvania Department of Agriculture, shall have received a certificate of proficiency from the said department. Each applicant for examination for such certificate shall pay a fee of three dollars (\$3.00) to the Secretary of Agriculture or his agents. The said department shall issue such certificate of proficiency in the name of the approved applicant and under serial number. The Secretary of Agriculture, upon the receipt of this certificate of proficiency together with the payment of a fee of three dollars (\$3.00), shall issue a license to said applicant, good for one calendar year. This license shall be renewed annually without further examination, at the discretion of the Secretary of Agriculture, upon the payment of a fee of three dollars (\$3.00). [All moneys so collected shall be used to meet the expenses of the Department of Agriculture for the enforcement of this act.] Each certified tester shall post his license in plain view in the testing room in which he is employed. The Secretary of Agriculture shall revoke said license for failure to post it, as above required, or for any other just cause.
Examination fee.	
Certificate.	
License and fee.	
Tester to post license.	
Revocation.	
Section 5 as amended, and as corrected, further amended.	Section 4. That section five of said act, as amended by said act approved the seventh day of April, one thousand nine hundred and twenty-seven (Pamphlet Laws, one hundred fifty-eight), and as corrected by the act approved the twenty-seventh day of March, one thousand nine hundred and twenty-nine (Pamphlet Laws, eighty-three), is hereby further amended to read as follows:
Samples of milk or cream for testing purposes.	Section 5. Every person, association, copartnership, or corporation engaged in the business of buying milk or cream on the basis of, or in any way with reference to, the amount of butterfat contained therein, or tests made for official inspection or public record, shall have the samples taken for testing purposes either by a licensed tester or by a person licensed or certified to weigh and sample milk and cream. For the purpose of this act a person certified to weigh and sample milk or cream is any person who, having furnished satisfactory evidence of good character and having passed a satisfactory examination in weighing and sampling milk and cream conducted by the Department of Agriculture,
Tests for official inspection or public record.	

shall have received a certificate of proficiency from said department. Each applicant for *examination* for such certificate shall pay a fee of one dollar and fifty cents (\$1.50) to said department. The said department shall issue such certificate of proficiency in the name of the approved applicant and under serial number. The Secretary of Agriculture, upon receipt of this certificate of proficiency together with the payment of a fee of three dollars (\$3.00), shall issue a license to said applicant, good for one calendar year. This license shall be renewed annually without further examination, at the discretion of the Secretary of Agriculture, upon the payment of three dollars (\$3.00). [All moneys so collected shall be used to meet the expenses of the Department of Agriculture in the enforcement of this act.] Each licensed weigher and sampler shall post his or her license in plain view in the plant in which he or she is employed. The Secretary of Agriculture may revoke said license for failure to post it, as above mentioned, or for any other just cause.

Section 5. That sections six, eight, nine, eleven, and twelve of said act are hereby amended to read as follows:

Section 6. Any person, association, copartnership, corporation, or agents or servants thereof engaged in the business of buying milk or cream on the basis of, or in any way with reference to, the amount or percentage of butterfat contained therein, as determined by the "Babcock test," shall make such test at least once every sixteen days. The milk or cream purchased from each person shall be represented by a composite sample taken from the entire delivery of each of the several lots of milk or cream bought from said person and shall cover a period of not more than sixteen days. The composite sample to which a suitable preservative has been added shall be made up of aliquot parts taken from each of the several lots of milk or cream bought from each person concerned, and composite samples of all persons concerned shall cover the same period of time. *Any person taking a sample or samples of milk or cream, either from the aliquot part of each lot of milk sampled or from the composite lot of milk or cream sampled, shall thoroughly stir or mix the contents of each and every container immediately before such sample or samples are taken, in such manner that the milk and cream are thoroughly mixed in each container before the sample is taken. No weigh tank or container from which the aliquot part is taken for composite samples shall have any partition, division, or strainer which will prevent such thorough stirring or mixing.* Each composite sample shall be held in an air-tight bottle—such bottle being plainly labeled showing the name or number of the person whose milk or cream the composite sample

Examination fee.

License and fee.

Annual renewal.

License to be posted.

Revocation.

Sections 6, 8, 9, 11 and 12, amended.

Test to be taken once every sixteen days.

Composite samples.

Contents of containers to be thoroughly stirred or mixed.

Residues to
be held intact.

Check test.

Notice of result
of test.

Where daily
test made.

Fraudulent
to use other
than approved
weights, meas-
ures or but-
terfat test.

Purchaser or
receiver from
producer to
give producer
a statement.

represents—and the rack or container where the samples are held shall be plainly labeled showing the date of the first and last day of the period covered by the said composite samples. The Secretary of Agriculture may require that the composite samples be tested on the premises where they are taken whenever in his judgment such action is for the public welfare. After such samples have been tested their residues shall be held intact and in condition suitable to test on the premises where they are tested for a further period of not less than ten days in order to make possible a check test. The Secretary of Agriculture, or his agents, is hereby authorized to make such tests whenever in his judgment such tests are advisable for the public welfare. Every person, firm, or corporation affected by the provisions of this act shall, within two days after the day on which the test herein provided for has been made, notify the seller of such milk or cream or his agent of the result of such test, stating the period of time during which said composite samples were taken. Notice under this section [may] *shall* be given by posting of the results of said tests continuously for ten days in a conspicuous place in receiving stations or in writing *delivered to the seller or his agent*. Where a daily test is made on milk or cream, and the average of these several tests used as a basis of settlement, there shall also be a composite sample taken covering a period of first and last half of month and shall be held intact on the premises for a period of not less than ten days, in order that the Secretary of Agriculture or his agents, may make check tests whenever in his judgment such tests are advisable for the public welfare.

Section 8. No person, association, copartnership, or corporation purchasing or selling milk or cream or both by weight or measure *or butterfat test*, and no agent or servant of any such person, association, copartnership, or corporation shall [fraudulently] use as a basis of payment for such purchase any weight or measure *or butterfat test* other than the [true] *approved method of ascertaining weight or measure or butterfat test* of the milk or cream purchased or sold.

Section 9. Every person, association, copartnership, corporation, or agent or servant purchasing or receiving milk or cream from the producer thereof for manufacturing purposes or for re-selling the same shall, at each time of payment to such producer for such milk or cream, or where the producer of such milk or cream is selling the same to such purchaser or receiver by or through co-operative association or other agency and the payment thereof is being made by such purchaser or receiver to such co-operative association or other agency shall, at the time such purchaser or receiver makes each payment to such co-operative association or

other agency, give each such producer so delivering milk a statement showing the amount delivered daily during the time for which payment is made and the average per centum butterfat test of same, provided payment is made on the basis of the butterfat content—such statement to contain the name or number of the producer or seller of such milk or cream, the date of delivery thereof, and the amount so delivered; such statement to be given in the terms of the unit used as a basis for determining the value thereof: Provided, however, That such purchaser or receiver may in lieu of said monthly statement *of weights* give daily to such producer or to his agent at the time of delivery of such milk or cream to such purchaser or receiver a written statement of the amount of milk or cream so received or purchased.

Contents of statement.

Proviso.
May give daily statement.

Section 11. The Secretary of Agriculture or his agents shall be charged with the enforcement of the provisions of this act *and shall have authority to make such rules and regulations as are necessary for the proper enforcement of the provisions of this act.*

Enforcement of act.

Section 12. For violation of any of the provisions of this act proceedings may be instituted against the owner or manager who is responsible for the business transacted, together with the certified tester, or the person weighing and sampling, either or all *to be held equally responsible.*

Violations.

Section 6. That said act is hereby amended by adding thereto the following new section:

Section 14A. If any of the provisions of this act are declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the act and the applicability thereof to other persons and circumstances shall not be affected thereby.

Section 14A. added.

Section 7. This act shall become effective on the first day of August, one thousand nine hundred and thirty-five.

Effective date.

APPROVED—The 9th day of July, A. D. 1935.

GEORGE H. EARLE

No. 218

AN ACT

To further amend section three of the act, approved the second day of May, one thousand nine hundred and twenty-nine (Pamphlet Laws, one thousand five hundred thirty), entitled "An act relating to the erection of a dam at the outlet of Pymatuning Swamp, and the establishment of a reservoir for the flood control of the Shenango and Beaver Rivers; conferring and continuing certain powers and duties on the Department of Forests and Waters in relation to the establishment and main-