

departments, boards and commissions shall be determined," and the amendments thereto, are hereby specifically repealed in so far as said sections and said clauses relate to the Anatomical Board.

Section 8. All acts and parts of acts inconsistent herewith are hereby repealed.

Inconsistent acts repealed.

Section 9. This act shall become effective immediately upon its final enactment.

When effective.

APPROVED—The 22d day of April, A. D. 1937.

GEORGE H. EARLE

No. 105

AN ACT

Relating to milk and the products thereof; creating a Milk Control Commission; establishing its jurisdiction, powers and duties; regulating the production, transportation, manufacturing, processing, storage, distribution, delivery and sale of milk and certain products thereof; providing for the licensing of milk dealers and the payment of fees therefor; requiring milk dealers to file bonds to secure payment for milk to producers and certain milk dealers; authorizing the holding of hearings and the issuance of subpoenas by the commission; conferring jurisdiction upon courts to punish contempts and to prohibit violations of this act and of rules, regulations and orders of the commission; authorizing the commission to adopt rules, regulations and orders, and to enter into interstate and Federal compacts; requiring persons who weigh, measure, sample or test milk to procure permits or certificates, to take examinations, to pay fees therefor, to furnish certain notices, records and statements, and to use certain methods of weighing, measuring, sampling and testing; authorizing the commission to examine the business, papers and premises of milk dealers and producers, requiring the keeping of records and the filing of reports by milk dealers, and permitting, with limitations, the use of information obtained thereby; authorizing the commission to fix prices for milk and certain milk products subject to the approval of the Governor, and conferring certain powers upon the Governor with respect thereto; providing for appeals to the courts from decisions of the commission, and for the burden of proof upon such appeals; prescribing penalties, fines and imprisonment for violations of this act and rules, regulations and orders of the commission; defining perjury; defining remedies; repealing legislation supplied and superseded by this act, and saving rights, duties and proceedings thereunder; and making appropriations.

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Preamble.

WHEREAS, The production, sale and distribution of milk and certain milk products in this Commonwealth, are attendant with serious conditions affecting milk producers, milk dealers and consumers of milk, the following legislative findings of fact with respect thereto are hereby made:

1. Milk is the most necessary human food, vital for promotion of the public health and for development of strength and vigor in the race. It is a most fertile field for the growth of bacteria, and therefore its production and distribution have been surrounded by more costly sanitary requirements than those of any other commodity in this, the third greatest milk producing and consuming state of the nation.

2. Milk consumers are not assured of a constant and sufficient supply of pure, wholesome milk unless the high cost of maintaining sanitary conditions of production and standards of purity is returned to the producers of milk. If this is not done, large numbers disperse of their herds or engage in milk strikes, and remaining producers supply unhealthful milk or milk of lower quality because of financial inability to comply with sanitary requirements and to keep vigilant against contamination. Public health is menaced when milk dealers do not or cannot pay a price to producers commensurate with the cost of sanitary production, or when consumers are required to pay excessive prices for this necessity of life.

3. Milk dealers must handle constant surpluses to meet the emergency requirements of normal variations in fluid consumption and to meet seasonal variations in production, which amounts in excess of fluid requirements must find a market in fluid use or in manufacture, and tend to demoralize the industry. Only one per centum of the milk dealers of the Commonwealth handle over sixty per centum of the milk sold by producers

to dealers; and persons have often combined privately to establish practices or fix prices to the detriment of producers or consumers.

4. Milk producers must make delivery of their highly perishable commodity immediately after it is produced, and must generally accept any market at any price. Under the utilization method of payment prevailing in the milk industry, particularly in cities, the value of this market is unknown until the milk dealer sells the fluid milk and uses or disposes of the surplus. Furthermore, only the dealers have facilities for accurately weighing and testing milk. This knowledge of weights, tests and uses is in the exclusive possession of the dealer. The producers' lack of control over their market is aggravated by the trade custom of dealers in paying weeks after delivery, keeping producers obligated to continue delivery in order to receive payment for previous sales, and permitting dealers to operate on the producers' capital without giving security therefor. Hence, milk producers are subject to fraud and imposition, and do not possess the freedom of contract necessary for the procuring of cost of production.

WHEREAS, Public control of the milk industry in recent years is stabilizing the conditions therein, and a relaxation of control will cause a return to the unhealthy, uneconomic, deceptive and destructive practices of the past with respect to this paramount industry upon which the health and welfare of the Commonwealth largely depends; and

WHEREAS, It is necessary to preserve and promote the strength and vigor of the inhabitants of this Commonwealth, to protect the public health and welfare, and to prevent fraud and imposition upon consumers and producers by continuing to treat the production, transportation, manufacture, processing, storage, distribution, and sale of milk in the Commonwealth of Pennsylvania as a business affecting the public health and affected with a public interest.

Be it enacted, &c., As follows:

Milk Control
Law.

ARTICLE I

PURPOSE, SHORT TITLE, DEFINITIONS

Section 101. Legislative Purpose.—In the exercise of the police power of the Commonwealth, it is hereby declared that the production, transportation, manufacture, processing, storage, distribution, and sale of milk in the Commonwealth is a business affecting the public health and affected with a public interest, and it is hereby declared that this act shall be and is hereby enacted for the purpose of regulating and controlling the milk industry in this Commonwealth, for the pro-

Legislative
intent.

tection of the public health and welfare and for the prevention of fraud.

Short Title.

Section 102. Short Title.—This act shall be known, and may be cited, as the “Milk Control Law.”

Definitions.

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

“Commission” means the State agency created by this act, to be known as the “Milk Control Commission.”

“Consumer” means any person, other than a milk dealer, who purchases milk for consumption or use.

“Licensee” means a licensed milk dealer.

“Market” includes any city, borough, incorporated town, or township in the Commonwealth, or any two or more such cities, boroughs, incorporated towns, or townships, or any portions thereof, designated by the commission as a marketing area.

“Milk” includes fluid milk and cream, fresh, sour or storage, skimmed milk, flavored milk or milk drink, buttermilk, ice cream mix, and condensed or concentrated whole or skimmed milk, except when contained in hermetically sealed cans.

“Milk dealer” means any person, including any store or subdealer, as hereinafter defined, who purchases or handles milk within the Commonwealth, for sale, shipment, storage, processing or manufacture, within or without the Commonwealth. A producer who delivers milk to a milk dealer only shall not be deemed a milk dealer. A cooperative agricultural association or corporation of producers of milk, organized under the laws of this Commonwealth or of any other state, and engaged in making collective sales of milk for producers under contract with it, shall not be deemed a milk dealer, but shall be deemed a producer: Provided, however, That if such association or corporation distributes milk within this Commonwealth to stores, as defined in this act, or to consumers, as defined in this act, it shall be deemed to be a milk dealer as to that part of its business, and shall be governed by the provisions of this act applicable thereto: And provided further, That such cooperative agricultural association or corporation shall be governed by the applicable provisions of this act as to the prices at which it sells, markets, or bargains to sell milk within this Commonwealth to milk dealers and others.

“Person” includes an individual, corporation, association, partnership, limited partnership, or other unincorporated enterprise owned by two or more individuals.

“Producer” means a person producing milk.

“Store” includes a grocery store, hotel, restaurant, soda fountain, dairy products store, or any similar mercantile establishment which sells milk.

“Subdealer” means any milk dealer handling milk within the Commonwealth, who sells all such milk to consumers or stores in the same containers as those in which he purchased it from other milk dealers.

Any reference in this act to quantity of milk shall be construed to include its whole milk equivalent.

Article or section headings shall not be construed to affect in any manner the scope or meaning of any article or section of this act.

The singular shall be construed to include the plural. The masculine shall be construed to include the feminine and the neuter, and conversely, the neuter shall be construed to include the masculine and the feminine.

ARTICLE II

ORGANIZATION OF THE COMMISSION

Section 201. Appointment and Terms of Members; Quorum.—There is hereby created an independent administrative commission to be known as the Milk Control Commission. The commission shall consist of three members nominated and appointed by the Governor, by and with the advice and consent of two-thirds of all the members of the Senate, for terms of six (6) years each, and until their successors shall have been appointed and qualified; except that the terms of the members first taking office shall expire May first, one thousand nine hundred thirty-nine, May first, one thousand nine hundred forty-one, and May first, one thousand nine hundred forty-three, respectively, as designated by the Governor at the time of appointment, and until their successors shall have been appointed and qualified.

The Governor shall designate one of the members of the commission as chairman. The chairman shall, when present, preside at all meetings, and in his absence a member designated by the chairman shall preside.

Two members of the commission shall constitute a quorum, and any action or order of the commission shall require the approval of at least two members.

The Governor may remove any commissioner for inefficiency, neglect of duty or misconduct in office: Provided, That he is given a copy of the charges against him and an opportunity to be publicly heard in person or by counsel in his own defense upon not less than ten days' notice, and that the Governor file with the Department of State a complete statement of all charges made against such commissioner, together with a complete record of the proceedings and his findings thereon.

Section 202. Qualifications and Salaries.—Each member of the commission at the time of his appointment and qualification shall be a citizen of the United States.

No member of the commission, during his period of service as such, shall hold any other office under the laws of this Commonwealth or of the United States.

The chairman of the commission shall receive a salary of six thousand five hundred dollars (\$6,500) per annum. The other members of the commission shall receive salaries at the rate of six thousand dollars (\$6,000) per annum.

Section 203. Secretary; Administrative Code.—The commission may appoint a secretary to hold office at its pleasure. The secretary, if appointed, shall have such powers and shall perform such duties, not contrary to law, as the commission shall prescribe, and shall receive such compensation as the commission, with the approval of the Governor, shall determine. The secretary shall have power and authority to designate, from time to time, one of the clerks appointed by the commission to perform the duties of the secretary during his absence, and the clerk so appointed shall exercise, for the time so designated, the powers of the secretary of the commission.

Except as otherwise specifically provided in this act, the commission and its employes shall be subject to all the provisions of The Administrative Code of one thousand nine hundred twenty-nine, approved the ninth day of April, one thousand nine hundred twenty-nine (Pamphlet Laws, one hundred seventy-seven), its amendments and supplements, which apply generally to independent administrative boards or commissions.

No person employed in the work of the commission shall, for a period of two years after leaving the service of the commission, be eligible to appear before the commission representing any person interested in any proceeding pending before the commission.

ARTICLE III

GENERAL POWERS OF THE COMMISSION

Section 301. Regulation of Milk Industry.—The commission is hereby declared to be the instrumentality of the Commonwealth for the purpose of administering the provisions of this act and to execute the legislative intent herein expressed, and it is hereby vested with power to supervise, investigate and regulate the entire milk industry of this Commonwealth, including the production, transportation, disposal, manufacture, processing, storage, distribution, delivery and sale of milk and milk products in this Commonwealth, and including the establishment of reasonable trade practices, systems of production control and marketing area committees

in connection therewith: Provided, however, That nothing contained in this act shall be construed to alter, amend or repeal any of the laws of this Commonwealth relating to the regulation of public utilities, or to the public health or to the prevention of fraud and deception, except as herein otherwise specifically provided.

Section 302. Specific Powers not Impairment of General Powers.—The operation and effect of any provision of this act conferring a general power upon the commission shall not be impaired or qualified by the granting to the commission by this act of a specific power or powers.

Section 303. Official Seal; Evidence.—The commission may, for the authentication of its records, process and proceedings adopt, keep and use a common seal, of which seal judicial notice shall be taken in all courts of this Commonwealth; and any process, writ, notice or other document which the commission may be authorized by law to issue, shall be deemed sufficient if signed by the chairman or secretary of the commission and authenticated by such seal. All acts, proceedings, rules, regulations, orders, papers, findings, minutes and records of the commission and all reports and documents filed with the commission may be proved in any court of this Commonwealth by a copy thereof, certified to by the chairman or secretary of the commission, with the seal of the commission attached.

Section 304. Hearings; Witness Fees.—The commission, or any member thereof, may hold such hearings, at the Capitol or elsewhere, as it deems necessary to carry out the provisions of this act. Each witness required to attend before the commission or any member thereof, under the provisions of this section, shall be entitled to the fees and mileage customarily paid to witnesses in the courts of Dauphin County. All hearings of the commission shall be governed by such rules, regulations and orders as shall be adopted and prescribed by the commission.

Section 305. Subpoenas; Oaths.—In order to enable the commission to carry out the provisions of this act, it shall have the power to issue subpoenas requiring the attendance and testimony of, or the production of pertinent books and papers by, milk dealers or their employes, producers or their employes, persons having business dealings with milk dealers or producers, or other persons whom the commission believes to have information, books or papers of importance to it in carrying out the purposes and intent of this act. The commission also shall have the power to administer oaths and affirmations, to question witnesses thereunder, and to examine such books and papers. The commis-

sion may issue commissions, letters rogatory, or other appropriate processes outside the Commonwealth.

Section 306. Contempt.—Any person who refuses to obey a subpoena issued hereunder, or to be sworn or affirmed, or to testify, or who is guilty of any contempt after summons to appear, may be punished as for contempt of court. For this purpose an application may be made by the commission to the court of common pleas within the territorial jurisdiction of which the offense was committed, for which purpose such court is hereby given jurisdiction.

Section 307. Adoption of Rules, Regulations and Orders.—Subject to the approval of the Governor, where such approval is hereinafter expressly required, the commission may adopt and enforce all rules, regulations and orders necessary or desirable to carry out the provisions of this act and not inconsistent with law.

Section 308. Posting and Service of Rules, Regulations and Orders.—Every general rule, regulation or order of the commission shall be posted for public inspection in the main office of the commission at least six days before it shall become effective, and shall be given such further publicity, by advertisement or announcement, in a newspaper or otherwise, as the commission shall deem advisable. At least three days before it shall become effective, copies of such general rule, regulation or order shall be mailed to all licensees affected thereby: Provided, however, That such mailing shall not be construed as a condition upon which the validity of any such rule, regulation or order depends. A certified copy of an order applying only to the particular person or persons named therein shall be served on the person or persons affected.

An order, herein required to be served, shall be (1) served in the manner now or hereafter established by law for the service of writs of summons, except that such service need not be made by the sheriff; or (2) mailed, registered and charges prepaid, (a) in the case of an individual, to his last known residence or place of business, (b) in the case of an unincorporated association or a corporation formed under the laws of this Commonwealth, to its principal office, and (c) in the case of a corporation formed under the laws of any other state, to the office of its duly authorized agent in Pennsylvania, or, if there be no duly authorized agent in Pennsylvania, to its home office in the state of incorporation or in any other state.

The posting in the main office of the commission of any rule, regulation or order not herein required to be served, and the giving of such further publicity thereto as the commission deems advisable, or the proper service of any rule, regulation or order required to be

served, shall constitute due and sufficient notice to all persons affected by such rule, regulation or order. A rule, regulation or order of the commission, when duly posted and so publicized, or when properly served, as provided in this section, shall have the force and effect of law. The commission shall, upon request, mail to any person a copy of any general rule, regulation or order of the commission.

The mailing, or service by mail, herein required, shall be by deposit in a United States Post Office, or in any receptacle thereof.

Section 309. Certification of Rules, Regulations and Orders.—Certification by the chairman or secretary of the commission, to the effect that a general rule, regulation or order was duly posted and publicized as provided in this act, shall be prima facie evidence of such posting and publicity.

Section 310. Entry and Inspection.—Pursuant to the purposes of this act, any member of the commission, or any employe designated for the purpose, shall have access to, and may enter and inspect, at all reasonable hours, all places and equipment where milk or any product thereof is being produced, stored, bottled, processed, manufactured, sold, weighed, tested or otherwise handled. Any member of the commission or any designated employe thereof, also shall have power, at all reasonable hours, to inspect, audit and copy all books, papers, records or documents in any place within the Commonwealth, for the purpose of ascertaining facts to enable the commission to administer this act. The information obtained regarding any person by any such inspection, auditing or copying, or by reports or statements required or authorized by this act, shall be for the confidential use of the commission and the various administrative departments, boards and commissions of the State government, and shall not be disclosed by any person except as may be required in the enforcement of law or by order of court; and any member or employe of the commission, or other person, disclosing such information, except as herein required, shall be subject to the penalties herein provided for a violation of this act. Nothing contained in this act shall prevent the use of any information by the commission in the compiling and dissemination of general statistical data.

Section 311. Interstate and Federal Compacts.—The commission is hereby vested with authority to confer with legally constituted authorities of other states and of the United States with respect to uniform milk control within the states and as between states, to conduct joint investigations, to exchange information, hold joint hearings and issue joint, complementary or concurrent

orders, and to enter into a compact or compacts for such uniform milk control, subject to such Federal approval as may be authorized or required by law.

ARTICLE IV

LICENSES OF MILK DEALERS

Section 401. Milk Dealers Required to Be Licensed.—Except as herein otherwise specifically provided, a milk dealer, as defined in this act, shall not buy milk from producers or others within this Commonwealth for storage, manufacture, processing, distribution, or sale within or without this Commonwealth, or sell or distribute milk within this Commonwealth, unless such dealer be duly licensed as herein provided; and it shall be unlawful for a milk dealer to buy milk from, or sell milk to, a milk dealer who is not either licensed or exempted as herein provided, or, in any way, to deal in or handle milk which he has reason to believe has previously been dealt in or handled in violation of the provisions of this act.

Section 402. Milk Dealers Subject to Exemption.—The commission may, by official order, exempt from the license requirements provided by this act milk dealers who purchase or handle milk in a total quantity not exceeding one thousand five hundred pounds in any month, and milk dealers selling milk in any quantity only in markets of a population of one thousand, or less, for local consumption. The commission may, by official order, exempt stores, or any class thereof, from the license requirements provided by this act, and shall exempt stores selling milk, all of which has been purchased from a licensed milk dealer. However, milk dealers exempted by this section from the license requirements of this act shall continue to be subject to all the other provisions of this act relating to milk dealers.

Section 403. Applications.—An application for a license to operate as a milk dealer shall be completed and filed by the dealer with the commission within thirty days after this act takes effect, or prior to his engaging in business, and annually thereafter, on or before April fifteenth, by mail or otherwise, upon a form prescribed by the commission. Such application shall be accompanied by the fee required by this act, and by a bond when so required by this act, in order to be complete. The license year shall commence May first and shall end April thirtieth following. The applicant shall state under oath or affirmation, upon a form prescribed by the commission, the following:

- (1) The nature of the business to be conducted.
- (2) The full name of the person applying for the license. If the applicant is a copartnership or associa-

tion, the full name of each member shall be stated. If the applicant is a corporation, the names and addresses of all officers and directors shall be stated.

(3) The city, borough, incorporated town or township, and the street number, if any, at which the business is to be conducted.

(4) The financial condition of the applicant, including a comprehensive financial statement of his affairs.

(5) Facts showing that the applicant has adequate technical personnel and adequate technical and physical facilities properly to conduct the business of receiving and handling milk, that he has complied with all rules, regulations and orders of the commission filed or served as required in this act, the quantity, source and outlet of milk handled within the Commonwealth during the calendar year preceding the period for which the license is desired, and such other facts with respect to the applicant's business as may be required by the commission pursuant to this act.

Section 404. Grounds for Refusal, Suspension or Revocation.—The commission shall grant a license to an applicant complying with the provisions of this act and the rules, regulations and orders issued by the commission pursuant thereto. The commission may decline to grant a license to an applicant, or may suspend, revoke or refuse to transfer a license already granted to a milk dealer, or may prohibit a milk dealer exempted from the license requirements of this act from continuing to operate as a milk dealer, after determination by the commission that the dealer:

(1) Has rejected, without reasonable cause, any milk purchased from a producer, or has rejected, without either reasonable cause or reasonable advance notice, milk delivered by or on behalf of a producer in ordinary continuance of a previous course of dealing, except where the contract has been lawfully terminated: Provided, however, That in the absence of an express or implied fixing of a longer period in the contract, "reasonable advance notice" shall not be construed to mean notice of less than one week nor more than two weeks;

(2) Has, without reasonable cause, failed to account and make payment for any milk purchased from a producer;

(3) Has committed any act injurious to the public health or public welfare or to trade or commerce in demoralization of the price structure of milk to such an extent as to interfere with an ample supply thereof for the inhabitants of the Commonwealth affected by this act. It is hereby declared that such demoralization is injurious to the public health, public welfare, and to trade and commerce, and that evidence thereof shall include any course of conduct on the part of the milk

dealer in violation of the terms of this act or any valid rules, regulations and orders of the commission;

(4) Has made a general assignment for the benefit of creditors, or has been adjudged a bankrupt, or there has been entered against him a judgment upon which an execution remains wholly or partly unsatisfied;

(5) Has been a party to a combination to fix prices contrary to law. A cooperative agricultural association organized under the laws of this Commonwealth, or a similar association or corporation organized under the laws of this or any other state, and engaged in making collective sales or marketing for its members or shareholders, shall not be deemed or construed to be a conspiracy or combination in restraint of trade or an illegal monopoly; nor shall the contracts, agreements, arrangements or combinations heretofore or hereafter made by such association or corporation, or the members, officers or directors thereof, in making such collective sales and marketing, and prescribing the terms and conditions thereof, be deemed or construed to be conspiracies or to be injurious to public welfare, trade or commerce;

(6) Has continued in a course of dealing of such nature as to satisfy the commission of an intent of the milk dealer to deceive or defraud producers or consumers;

(7) Has failed either to keep records or to furnish accurately the statements or information required by the commission to be supplied to it or to producers or consumers;

(8) Has made any statement upon which the license was issued, which statement is found to have been false or misleading in any material particular;

(9) Is a partnership or corporation, and any individual holding any position, owning any substantial interest, or having any power of control therein, has previously been responsible, in whole or in part, for any act on account of which a license may be denied, suspended or revoked pursuant to the provisions of this act;

(10) Has violated any of the provisions of this act, or any of the rules, regulations or orders of the commission, or any stipulation entered into between the said dealer and the commission in the course of any proceeding before the commission;

(11) Has violated any provisions of acts repealed hereby, or of rules, regulations or orders issued thereunder.

The issuance or renewal by the commission of a license hereunder shall not preclude the commission from suspending or revoking such license for a violation committed by the licensee prior to the license period, un-

less the commission or its predecessor board had proceeded against the licensee for such violation, and any valid order thereon has been complied with by the licensee.

Section 405. Hearings and Orders.—Before refusing to grant or to reissue, or before suspending, revoking, or refusing to transfer a license, the commission shall afford the applicant or the licensee, respectively, an opportunity to be heard. It shall direct a citation to such applicant or licensee, by registered mail, sent to his last known address, giving therein at least five days' notice of such hearing, and a statement of the matters complained of. After such hearing, and upon entry of any order thereon, the commission shall serve a certified copy of such order upon the applicant or licensee, filing at its office the original and a statement in writing of the findings of fact in support thereof.

Section 406. Cancellation.—Where the commission declines to grant a license to an applicant, or revokes a license, and the dealer appeals therefrom, obtaining a supersedeas, the reason assigned for declining to grant or for revoking the license shall not be a reason for declining to grant the same dealer a license for a subsequent license period. However, in the event that the appeal from the order of the commission is dismissed, or otherwise terminated favorably to the commission, any license issued for such subsequent period shall be automatically cancelled five days after the termination of the appeal, unless the commission otherwise orders.

Section 407. Transfer.—Licenses issued under this act may not be assigned. Licenses may, however, be transferred from one person to another, provided that the prior written approval of the commission to such transfer is obtained; but a receiver, an executor or administrator who succeeds to the business of a licensee may continue the business for a period of two weeks, if otherwise authorized by law, without securing the prior approval of the commission. Any change in the membership of a partnership or limited partnership, either by the withdrawal or the addition of a partner, shall be construed to require a transfer of the license. Applications for such transfers shall be filed with the commission at least one week before the transfer is to be made, or, in the case of a receiver or an executor or administrator, within two weeks after he takes possession of the business of the licensee. Whenever any license is transferred, no license fee shall be required from the person to whom such transfer is made for the balance of the then current license year, except the transfer fee of one dollar.

Section 408. License Fees Generally.—The commission shall charge and collect license fees from milk

dealers on a yearly basis, as follows: Where a milk dealer received, produced or brought within the Commonwealth, during the calendar year preceding the period for which the license is issued, a daily average total quantity of milk—

(1) Not exceeding twenty (20) pounds, a license fee of one dollar (\$1.00);

(2) Exceeding twenty (20) pounds, but not exceeding one hundred (100) pounds, a license fee of three dollars (\$3.00);

(3) Exceeding one hundred (100) pounds, but not exceeding five hundred (500) pounds, a license fee of ten dollars (\$10.00);

(4) Exceeding five hundred (500) pounds, but not exceeding one thousand (1,000) pounds, a license fee of fifteen dollars (\$15.00);

(5) Exceeding one thousand (1,000) pounds, but not exceeding two thousand (2,000) pounds, a license fee of thirty dollars (\$30.00);

(6) Exceeding two thousand (2,000) pounds, but not exceeding three thousand (3,000) pounds, a license fee of forty dollars (\$40.00);

(7) Exceeding three thousand (3,000) pounds, but not exceeding four thousand (4,000) pounds, a license fee of fifty dollars (\$50.00);

(8) Exceeding four thousand (4,000) pounds, but not exceeding five thousand (5,000) pounds, a license fee of sixty dollars (\$60.00);

(9) Exceeding five thousand (5,000) pounds, but not exceeding seven thousand five hundred (7,500) pounds, a license fee of seventy-five dollars (\$75.00);

(10) Exceeding seven thousand five hundred (7,500) pounds, but not exceeding ten thousand (10,000) pounds, a license fee of one hundred dollars (\$100.00);

(11) Exceeding ten thousand (10,000) pounds, but not exceeding fifteen thousand (15,000) pounds, a license fee of one hundred fifty dollars (\$150.00);

(12) Exceeding fifteen thousand (15,000) pounds, but not exceeding twenty-five thousand (25,000) pounds, a license fee of two hundred dollars (\$200.00);

(13) Exceeding twenty-five thousand (25,000) pounds, but not exceeding fifty thousand (50,000) pounds, a license fee of three hundred dollars (\$300.00);

(14) Exceeding fifty thousand (50,000) pounds, but not exceeding one hundred thousand (100,000) pounds, a license fee of five hundred dollars (\$500.00);

(15) Exceeding one hundred thousand (100,000) pounds, but not exceeding two hundred fifty thousand (250,000) pounds, a license fee of one thousand dollars (\$1,000.00);

(16) Exceeding two hundred fifty thousand (250,000) pounds, but not exceeding five hundred thousand (500,-

000) pounds, a license fee of one thousand five hundred dollars (\$1,500.00);

(17) Exceeding five hundred thousand (500,000) pounds, but not exceeding seven hundred fifty thousand (750,000) pounds, a license fee of two thousand five hundred dollars (\$2,500.00);

(18) Exceeding seven hundred fifty thousand (750,000) pounds, but not exceeding one million (1,000,000) pounds, a license fee of three thousand five hundred dollars (\$3,500.00);

(19) Exceeding one million (1,000,000) pounds, a license fee of five thousand dollars (\$5,000.00).

The commission shall charge and collect license fees from subdealers on a yearly basis of fifteen dollars (\$15.00) for each route owned or operated at the commencement of the license period.

Except as otherwise expressly provided by this act, the license fee fixed by this section shall be paid before any license, or any renewal thereof, is issued. Where a license is applied for by a milk dealer, and the commission declines to grant a license to the applicant, the license fee shall be charged and retained by the commission only pro rata for so much of the license year as expired prior to the issuance of the order refusing the license.

Section 409. License Fees of Certain Milk Dealers.—Milk dealers who are not engaged in the milk business at the commencement of the license period shall pay a proportionate amount of the annual fee as follows:

(1) For a license issued on or after August first, but prior to November first, three-fourths of the annual fee;

(2) For a license issued on or after November first, but prior to February first of the succeeding year, one-half of the annual fee;

(3) For a license issued on or after February first, but prior to May first, one-fourth of the annual fee.

Milk dealers not engaged in the milk business during any month in the preceding calendar year shall submit with their application a license fee in the sum of one dollar (\$1.00) and, in addition thereto, at such time or times as the commission may fix, but not more than four months after the granting of the license, shall pay an additional sum based upon the daily average total quantity of milk received, produced or brought within the Commonwealth by such dealer during any of such months, in the proportionate amount above stated.

Section 410. Computation of License Fees.—Milk sold and distributed outside of this Commonwealth in any state which charges milk dealers a license fee may be deducted in the determination of the amount of the license fee required by this act: Provided, That such quantity of milk is actually computed in determining

the amount of such license fee in such other state. In computing the license fee to be charged by the commission, the fluid milk equivalent of milk other than fluid milk, shall be ascertained and fixed in such manner as the commission shall prescribe. Nothing herein is to be construed as requiring, in the computation of the license fee, the inclusion of milk which is received by the applicant milk dealer from another milk dealer, subject to license hereunder, which milk has been included in the computation of such other dealer's fee; or milk which is produced by the applicant dealer and not sold by him to stores or consumers. Applicant milk dealers, other than subdealers, receiving their entire supply from milk dealers who have paid a license fee thereon to this commission, shall pay the license fee of ten dollars (\$10.00).

Section 411. Classification of Licenses.—The commission may classify licenses, and may issue licenses to any milk dealer to operate as a milk dealer in a particular municipality only, or in a particular market or markets in the Commonwealth only, but no milk dealer shall, if granted a license under this act at all, be prohibited from acting as a milk dealer in any municipality or in any market in which he was operating upon January second, one thousand nine hundred thirty-four.

Section 412. Other Licenses.—The licenses required by this act shall be in addition to any other licenses which are now or may hereafter be required by law.

ARTICLE V

BONDS OF MILK DEALERS

Section 501. Milk Dealers Required to File Bonds.—It shall be unlawful for a milk dealer to purchase milk from producers unless the milk dealer shall file with the commission a corporate surety, individual surety, or collateral bond, approved by the commission. Except as otherwise herein provided, the bond shall be in a sum equal to the value of the highest aggregate amount of milk purchased by the dealer from producers in any one month during the preceding calendar year, which value shall be computed according to lawful prices, and shall not in any event exceed one hundred thousand dollars (\$100,000.00). The bond shall be upon a form prescribed by the commission, conditioned for the payment by the milk dealer of all amounts due, including amounts due under this act and the orders of the commission, for milk sold by such producers to the milk dealer during the license year, upon such terms and conditions as the commission may prescribe.

In the case of a milk dealer who pays producers in full each week for milk purchased by him from such producers, the bond shall be in a sum equal to fifty per

centum of the value of the highest aggregate amount of milk purchased by the dealer from producers in any one month during the preceding calendar year, which value shall be computed according to lawful prices, and shall not in any event exceed fifty thousand dollars (\$50,000.00).

Section 502. Computation of Amount of Certain Bonds.—Milk purchased by a milk dealer from producers outside the Commonwealth, and sold by such dealers as fluid milk within the Commonwealth, shall be included in computing the amount of such dealer's bond, except where such dealer has filed a bond for the protection of such producers with the state wherein the milk is purchased or with such producers. In such computation, the amount due for such milk shall be determined according to any applicable official prices or any lawful contract price.

A milk dealer purchasing or intending to purchase milk from producers, but not so engaged during any month of the preceding calendar year, shall file a bond in a reasonable sum to be fixed by the commission, and within the time for filing his application such dealer shall request the commission to fix such sum.

Section 503. Time of Filing.—The bond herein required shall be filed with the dealer's application for a license, and shall be filed within the time for filing such application.

Section 504. Requisites of Bonds; Substitution.—A corporate surety bond shall be executed to the Commonwealth by the milk dealer, as principal, and by a corporate surety company. The commission shall have no power to reject any corporate surety bond which is so executed by a corporate surety company authorized to do business in this Commonwealth as surety. An individual surety bond shall be executed to the Commonwealth by the milk dealer, as principal, and by one or more individuals, as surety or sureties, who shall have sole title to real estate, the fair valuation of which, free and clear, or in excess, of all encumbrances, shall be at least equal to the amount of the bond. A collateral bond shall be executed to the Commonwealth by the milk dealer, as principal, shall set forth therein the collateral posted with such bond, and shall have attached thereto the collateral properly assigned and transferred to the Commonwealth of Pennsylvania. The collateral posted with such bond shall be cash in an amount equal to the amount of the bond; or such bond shall be secured by an actual deposit with the commission, or with a bank, bank and trust company, or national bank within the Commonwealth, of money to the full amount of the bond; or by securities to such amount, consisting of interest-bearing obligations of the United States Government, of this Commonwealth,

or of any political subdivision of this Commonwealth, or by any other security or securities approved by the commission. The security or securities deposited therewith shall constitute a trust fund for producers from whom the dealer purchases milk.

The commission may likewise grant to any milk dealer the authority to substitute for any bond, surety or any collateral, another bond, surety or other collateral, provided that such other bond, surety or collateral meets all the requirements of this act.

Section 505. Financial Statement.—A milk dealer shall, from time to time, when required by the commission, make and file with the commission a verified statement of his disbursements, or of any other facts in connection with his business, during a period to be prescribed by the commission, which financial statement shall contain the names of the producers from whom milk was purchased, the amount due to the producers, and any other relevant facts required by the commission pertinent to the dealer or the dealer's surety or sureties.

Section 506. Increase or Decrease of Bond.—If it shall appear from the dealer's financial statement, or from facts otherwise ascertained by the commission, that the bond afforded to producers selling milk to such milk dealer does not adequately protect such producers, the commission may require such milk dealer to procure an additional surety, or to give an additional bond or additional security for the collateral bond, in a sum to be determined by the commission, which shall not exceed more than fifty per centum of the value of the highest aggregate amount of milk purchased by the dealer from producers in any one month during the preceding or current year, which value shall be computed according to the prices applicable, and shall not in any event exceed fifty thousand dollars (\$50,000.00). In the case of a milk dealer who pays producers in full each week for milk purchased by him from such producers, any increase required hereunder shall not exceed more than twenty-five per centum of such value, and in any event shall not exceed twenty-five thousand dollars (\$25,000.00).

The commission may grant a reduction of the bond or the collateral, or release an additional surety, if it shall appear that owing to a decrease in the milk purchases of the milk dealer, or to other causes, a bond in a lesser amount or with fewer sureties will protect producers selling milk to such milk dealer.

Section 507. Duty of State Treasurer.—All bonds, together with any moneys, or securities given as collateral therefor, received by the commission from milk dealers pursuant to the provisions of this section, shall be transmitted by the commission to the State Treasurer for safe-

keeping, subject to withdrawal in whole or in part at any time by the commission.

Section 508. Interest or Dividends upon Securities.—The milk dealer shall be entitled to all moneys received by the State Treasurer as interest or dividends upon any security or securities deposited by such milk dealer with the commission and transmitted by the commission to the State Treasurer for safekeeping, in accordance with the provisions of this act: Provided, however, That the milk dealer shall not be entitled to interest or dividends if there is on file with the commission a valid unpaid claim of a producer against the milk dealer, based on milk sold by such producer to the milk dealer.

Section 509. Suit by Commission.—The commission shall have the power, in its discretion, to sue on the bond on behalf of producers. Suit may be brought in the name of the Commonwealth upon relation of the commission or of the Attorney General, in such manner as debts are now by law recoverable.

Section 510. Effect of Order by Commission.—If, by valid formal order refusing, suspending or revoking a license, after hearing with due notice to all those liable on the bond, the commission has found a milk dealer to be indebted thereunder, such order shall be conclusive evidence of the amount due under such bond in a suit thereon by the commission, unless an appeal therefrom is pending and a supersedeas granted.

Section 511. Procedure for Disbursing Proceeds.—The commission may prescribe the procedure for the payment, out of the proceeds of any bond or collateral required by this article, of the amounts found due to producers, based on sales of milk by them to a milk dealer who has posted a bond or collateral: Provided, however, That if the proceeds of a bond or of collateral which has been posted by a milk dealer shall be insufficient to pay in full the amounts due to producers who have sold milk to such milk dealer, the moneys available shall be divided pro rata among such producers.

Section 512. Cooperatives.—A cooperative agricultural association or corporation organized under the laws of this Commonwealth, or a similar association organized under the laws of this or any other state, shall be deemed a producer within the provisions of this article and shall be entitled to its benefits. Such an association or corporation, if operated for the benefit of producers under contract with it and not conducted for profit, shall not be required to file a bond under the provisions of this article.

Section 513. Subdealers' Bonds.—It shall be unlawful for a subdealer to buy milk from a milk dealer who purchases milk from producers, unless the subdealer shall file with the commission a corporate surety, indi-

vidual surety, or collateral bond, approved by the commission. Such bond shall be executed to the Commonwealth in a sum equal to three hundred dollars (\$300.00) for each route owned or operated by the subdealer, and shall be conditioned for the payment by the subdealer of all amounts due under this act and the orders of the commission for milk purchased from such milk dealer or dealers during the license year; subject, however, to the further condition that if at time of default, such milk dealer or dealers are indebted to producers, the proceeds thereof shall be held on the account of such dealer or dealers for the benefit of such producers. Such bond shall be filed annually with the subdealer's application for a license, and shall, in all applicable particulars not herein specifically mentioned, be subject to terms and conditions such as provided in the other sections of this article for the bonds of other milk dealers and for suits thereon, except where the protection of such milk dealers selling to the subdealer, or of producers selling to such milk dealers, requires the substitution of such dealers and producers in applying such terms and conditions to the bonds of subdealers.

ARTICLE VI

WEIGHING AND TESTING

Section 601. Weighing or Measuring Permits.—It shall be unlawful for any milk dealer to buy or receive milk from producers at any plant, station, creamery, factory or other place within the Commonwealth where such milk is weighed or measured, or to sell or deliver milk to stores or consumers, unless the milk dealer holds a permit for each place of weighing or measuring such milk, issued by the commission as herein provided.

The weighing or measuring permit shall be issued by the commission for each such place upon application therefor by the milk dealer, on a form prescribed by the commission, furnishing information including that pertaining to the apparatus and methods used, and persons engaged in weighing or measuring the milk. The application shall be accompanied by a fee of five dollars (\$5.00), and shall be filed before commencing to weigh or measure milk, and annually thereafter on or before December first.

Each weighing or measuring permit shall be issued hereunder for the term of one calendar year, and shall be posted and kept in plain view of persons delivering milk at the place for which it is issued.

Section 602. Certified Testers.—It shall be unlawful for any milk dealer to buy or receive milk from producers, or to sell or deliver milk to stores or consumers, on the basis of, or with reference to, the amount of but-

terfat contained in such milk, unless the butterfat test thereof is conducted by a tester certified by the commission.

The certified tester shall keep an accurate record of all tests made, and copies of such record shall be kept for a period of two (2) years by him and by the milk dealer.

Any person who, upon the effective date of this act, is the holder of a certificate of proficiency for milk testing issued after examination conducted by the Pennsylvania Department of Agriculture, shall, upon application to the commission, on a form prescribed by the commission, furnishing information including that pertaining to good character and to the apparatus and methods used in testing, be issued a certificate and be designated therein as a certified tester.

Any person who is not the holder of such certificate of proficiency upon the effective date of this act, shall, prior to applying for a tester's certificate, apply to the commission for a certificate of proficiency. Such application shall be accompanied by a fee of three dollars (\$3.00). The applicant shall be required to pass an examination in milk testing, reasonably prescribed and conducted by the commission, and upon approval of the application shall be issued a certificate of proficiency. Thereupon, and annually thereafter without such examination, the person so certified may apply for a tester's certificate as herein prescribed.

The application for a tester's certificate, accompanied by a fee of three dollars (\$3.00), shall be filed, upon a form prescribed by the commission, before commencing to test milk, and annually thereafter on or before December first.

The tester's certificate issued hereunder shall be for the term of one calendar year, and shall be posted and kept in plain view in the plant in which the certified tester is employed.

Section 603. Certified Weighers and Samplers.—It shall be unlawful for any milk dealer to buy or receive milk from producers, or to sell or deliver milk to stores or consumers on the basis of, or with reference to, the amount of butterfat contained in such milk, unless the samples taken for testing purposes shall be made by a certified tester or certified weigher and sampler, and according to the method prescribed in this act.

Any person who, upon the effective date of this act, is the holder of a certificate of proficiency for milk weighing and sampling issued after examination conducted by the Pennsylvania Department of Agriculture, shall, upon application to the commission on a form prescribed by the commission, furnishing information including that pertaining to good character and to apparatus and methods used in weighing and sampling, be issued a cer-

tificate and be designated therein as a certified weigher and sampler.

Any person who is not the holder of such certificate of proficiency upon the effective date of this act, shall, prior to applying for a weighing and sampling certificate, apply to the commission for a certificate of proficiency. Such application shall be accompanied by a fee of three dollars (\$3.00). The applicant shall be required to pass an examination in weighing and sampling milk, reasonably prescribed and conducted by the commission, and upon approval of the application shall be issued a certificate of proficiency. Thereupon, and annually thereafter without such examination, the person so certified may apply for a certificate as a certified weigher and sampler. The application for such weighing and sampling certificate, accompanied by a fee of three dollars (\$3.00), shall be filed, upon a form prescribed by the commission, before commencing to sample milk, and annually thereafter on or before December first.

The weighing and sampling certificate issued hereunder shall be for the term of one calendar year, and shall be posted and kept in plain view in the room in which the certified weigher and sampler is employed

Section 604. Refusal, Suspension and Revocation of Permits and Certificates.—The commission may decline to grant, or may suspend or revoke, a weighing or measuring permit, a tester's certificate or a weighing and sampling certificate, where the applicant therefor, or holder thereof, has violated any provision of this act for the weighing, measuring, testing or sampling of milk, or has violated any rules, regulations or orders of the commission respecting the weighing, measuring, testing or sampling of milk, or has engaged in any practice with respect thereto which causes milk producers to be underpaid for their milk, or which causes stores or consumers to overpay for such milk, or which otherwise defrauds or tends to defraud milk producers, stores or milk consumers.

The procedure before the commission and of the commission, with respect to the refusal, suspension or revocation provided for herein, and the procedure governing appeals from such action of the commission, shall be as that prescribed in this act with respect to milk dealers' licenses issued hereunder.

Licenses, permits and certificates heretofore issued by the Pennsylvania Department of Agriculture under acts repealed hereby, and which are in force upon the effective date of this act, shall be deemed permits and certificates issued by the commission* hereunder until the expiration dates thereof, and the holders shall be subject to all applicable provisions of this act.

* "commission" in the original.

Section 605. Transfer.—The permits and certificates herein provided for may not be assigned or transferred.

Section 606. Samples; Check Tests.—Milk dealers buying or receiving milk from producers on the basis of, or with reference to, the amount or percentage of butterfat contained in such milk, as determined by the method commonly known as the "Babcock Test," shall make such test at least once every sixteen (16) days. The milk from each producer shall be represented by a composite sample taken from the entire delivery of each of the several lots of milk bought or received from said person, and shall cover a period of not more than sixteen (16) 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 from each producer concerned, and composite samples of all producers concerned shall cover the same period of time.

Any person taking a sample or samples of milk, either from the aliquot part of each lot of milk sampled or from the composite lot of milk 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 is 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 airtight bottle, such bottle being plainly labeled showing the name or number of the producer whose milk the composite sample 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 commission may require that the composite samples be tested on the premises where they are taken. 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 (10) days after the rendering of a statement to the producer for milk delivered during such period, in order to make possible a check test.

Every milk dealer affected by the provisions of this act shall, within two (2) days after the day on which the test herein provided for has been made, notify the producer 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 shall be given by posting of the results of said tests continuously for ten (10) days in a conspicuous place in the plant or receiving station, or in writing delivered to the producer or his agent. Where a daily test is made on milk, and the average of

these several tests is used as a basis of settlement, there shall also be a composite sample taken covering the period of the first half of the month, and a composite sample taken covering the period of the last half of the month, and such samples shall be held intact on the premises for a period of not less than ten (10) days after the rendering of a statement to the producers for milk delivered during each such period, in order to make possible a check test.

The commission shall make check tests, and other reasonable tests, whenever in its judgment such tests are advisable for the public welfare, and may also require additional samples or additional composite samples from time to time.

Section 607. Violations.—It shall be unlawful for any milk dealer or other person engaged or employed in the business of buying or receiving milk from producers, or selling or delivering milk to stores or consumers, on the basis of, or with reference to, the amount or percentage of butterfat contained therein, to take, collect or use for testing purposes an unfair or inaccurate sample, or to underread, overread or erroneously manipulate the "Babcock Test" used for determining the amount or percentage of butterfat in such milk, 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 (135°) to one hundred forty-five degrees (145°) 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.

It shall also be unlawful for such milk dealer or other person, so engaged or employed, to ascertain the "Babcock Test" of the milk by use of any glassware except standard "Babcock Test" glassware and weights which have been previously inspected and approved by the Department of Internal Affairs. If the amount or percentage of butterfat is determined by any method other than the "Babcock Test," no utensil or instrument shall be used in such determination until it has been inspected and approved by the commission.

Section 608. Payment for Milk; Statement.—Milk dealers shall determine weight, measure and butterfat content of milk as provided in this act, or in rules, regulations or orders of the commission pertaining thereto and consistent with this act. Payment for milk shall be made either upon the basis of weight, measure or butterfat content, or any combination thereof, as the rules, regulations or orders of the commission may require.

Milk dealers buying or receiving milk from producers shall furnish to each producer or his agent a written statement showing the amount of milk delivered daily during the period for which payment is made, and, unless the commission otherwise provides, the average butterfat test of the milk delivered for such period. Such statement shall set forth such information as may be required by the commission, shall be furnished periodically, at the time of payment prescribed by the commission, and in no event less often than monthly: Provided, however, That a written statement of weights may be given daily to the producer or his agent in lieu of such periodic statement of the amount of milk delivered, unless the commission otherwise provides.

It shall be unlawful to use as the basis of payment for milk any amount or percentage of butterfat therein which has been ascertained from a sample containing milk that has been so treated as to cause it to test lower or higher than the milk from which it was taken.

It shall be unlawful for any person, including any milk dealer, to knowingly, fraudulently, or negligently weigh, measure, sample or test milk, or cause milk to be weighed, measured, sampled, or tested in such manner as to cause or tend to cause loss or injury to milk producers, stores or milk consumers, or to make any false or misleading statement with respect to the weight, measurement, sampling or testing of milk.

ARTICLE VII

RECORDS, REPORTS AND INFORMATION

Section 701. Records.—Milk dealers subject to license by the commission shall keep within the Commonwealth the following records:

(1) A record of the quantity of all milk received or produced, detailed as to location and as to names and addresses of producers or milk dealers from whom received, with butterfat test, weights, prices paid, and deductions or charges made.

(2) A record of the quantity of all milk sold, detailed as to grade, use, location, market outlet, and size and style of container, with prices and amounts received therefor, and the butterfat test thereof.

(3) A record of the quantities of all milk transported, shipped or hauled, including the distances and the amounts paid for the movement of such milk, in all cases where the dealer pays on his own account or on the account of producers for the movement thereof.

(4) A record of the quantity of each milk product manufactured, the quantity of milk used in the manufacture of each product, and the quantity and value of milk products sold.

(5) A record of wastage or loss of milk or butterfat.

(6) A record of the spread or handling expense and profit or loss, represented by the difference between the price paid and the price received for all milk and milk products.

(7) A record of all other transactions affecting the assets, liabilities, or net worth of the dealer.

(8) Such other records and information as the commission may deem necessary for the proper enforcement of this act.

The records herein required shall be kept in the possession of the milk dealer for a period not less than two years, unless the commission otherwise provides.

Section 702. Reports.—Each milk dealer shall, from time to time, as required by rule, regulation or order of the commission, make and file a verified report, on forms prescribed by the commission, of all matters on account of which a record is required to be kept, together with such other information or facts as may be pertinent and material within the scope of the purposes and intent of this act. Such report shall cover a period specified in the order, and shall be filed within a time fixed by the commission.

Section 703. Dissemination of Information; Conferences.—Licensees under this act, and associations or corporations thereof, producers of milk, and cooperative agricultural associations or corporations engaged in collectively processing, preparing for market, handling or marketing milk, may acquire, exchange, interpret and disseminate past, present and future market, statistical, economic and educational information pertaining to milk by direct exchange between such persons or such associations or corporations, or by and through a common agent created or selected by them, which agent may be the commission if it consents to be such. Any such licensees, producers and associations or corporations may confer and discuss the cost of production, marketing, market conditions and prices for the sale of milk.

ARTICLE VIII

PRICES OF MILK

Section 801. Requisites of Orders Fixing Price of Milk.—The commission shall ascertain, after a hearing in which all interested parties shall be given reasonable opportunity to be heard, the logical and reasonable milk marketing areas within the Commonwealth, shall describe the territorial extent thereof, shall designate such areas by name or number, and shall ascertain and maintain such prices for milk in the respective milk marketing areas as will be most beneficial to the public interest, best protect the milk industry of the Commonwealth and insure a sufficient quantity of pure and wholesome milk to inhabitants of the Common-

wealth, having special regard to the health and welfare of children residing therein.

The commission shall base all prices upon all conditions affecting the milk industry in each milk marketing area, including the amount necessary to yield a reasonable return to the producer and to the milk dealer.

The commission shall file at its office, with each order issued, a general statement in writing of the findings of fact in support of, and the reasons for, such order.

The commission may, upon its own motion or upon application in writing, from time to time, alter, revise or amend an official order defining milk marketing areas or fixing prices to be charged or paid for milk. Before making, revising or amending any order defining milk marketing areas or fixing prices to be charged or paid for milk, the commission shall hold a hearing, after giving reasonable notice thereof to interested persons, of whom the commission has notice, and, in the case of any order affecting the public, after giving reasonable notice thereof to the public in such newspaper or newspapers as, in the judgment of the commission, shall afford sufficient notice and publicity: Provided, however, That upon application in writing from a person aggrieved by an order of the commission hereunder, filed within fifteen (15) days after the issuance of the order complained of, or upon its own motion, the commission may, within twenty (20) days after the effective date of such order, issue an order revising or amending such order without a further hearing, if such revision or amendment is based on the record of the hearing held prior to the issuance of such order.

Every order made pursuant to this article, and any revision or amendment thereof, in which the commission fixes or changes the price of milk to producers or to consumers, or both, shall be subject to the approval of the Governor.

Section 802. Wholesale and Retail Prices.—The commission shall fix, by official order (except as hereinafter provided in this section), the minimum wholesale and retail prices, and may fix, by official order, the maximum wholesale and retail prices, to be charged for milk sold within any milk marketing area of the Commonwealth, wheresoever produced, including milk sold by:

- (1) Milk dealers to other milk dealers;
- (2) Milk dealers to consumers;
- (3) Milk dealers to stores, either for consumption on the premises or resale to consumers;
- (4) Stores to consumers, except for consumption on the premises where sold.

Nothing herein contained shall be construed to empower the commission to fix the price at which milk may be sold by any milk dealer or producer to consumers for

consumption on the premises of such milk dealer or producer.

The fixing of minimum wholesale or retail prices for skimmed milk, condensed or concentrated whole or skimmed milk, bulk cream handled between milk dealers other than stores, and ice cream mix, shall be discretionary with the commission.

Section 803. Prices to Producers.—The commission shall fix, by official order, the minimum prices to be paid by milk dealers to producers for milk: Provided, however, That the fixing of prices to be paid by milk dealers to producers for milk to be used solely in manufacturing shall be discretionary with the commission.

Section 804. Classification.—When, pursuant to any statute or regulations or orders adopted thereunder, or any ordinance or reasonable trade practice, various grades of milk are specified, orders of the commission fixing minimum or maximum prices may be applicable to each grade. Orders of the commission fixing minimum or maximum prices may vary in different markets, and shall designate the markets to which applicable. Such orders may likewise classify milk and milk dealers in any reasonable manner which the commission deems advisable, and may vary according to the classes to which they are applicable. The orders of the commission with respect to the minimum prices to be paid to producers and others shall apply to the area in which the milk is produced, or to the area in which the milk so produced is sold, and may vary in different areas according to varying uses, grades and conditions. Each such order may classify such milk by forms, classes, grade or uses, as the commission may deem advisable, and may specify the minimum prices therefor. Other reasonable methods of classification may be prescribed by the commission.

Section 805. Price Increases.—It is hereby declared to be the legislative intent that the benefits of any increase of prices received by milk dealers, by virtue of the minimum price provisions of this article, shall be given to producers, except in any case where the commission deems a deviation from this policy necessary in order lawfully to maintain proper milk markets and outlets for producers and consumers. The commission shall, whenever it deems such action necessary, issue orders, rules or regulations to effectuate this intent.

Section 806. Terms and Method of Payment.—The commission may likewise fix, by official order, the terms upon which milk dealers shall pay producers and others for milk, may prescribe the method of computing payment therefor, and may prescribe a form of written statement to be sent to producers with each payment.

Section 807. Violations.—After the commission shall have fixed prices to be charged or paid for milk, whether

by class, grade, use or otherwise, it shall be unlawful for a milk dealer or producer to sell or buy, or offer to sell or buy, milk at any price below the minimum price or above the maximum price applicable to the particular transaction.

No method or device shall be lawful whereby milk is bought or sold, or offered to be bought or sold, at a price less than the minimum price applicable to the particular transaction, whether by any discount, premium, rebate, free service, advertising allowance, or extension of credit, or by a combined price for such milk, together with another commodity or a service which is less, or is represented to be less, than the aggregate of the price of the milk and the price or value of such commodity or service when sold or offered for sale separately or otherwise.

It shall be unlawful for any milk dealer to sell any milk for which he has paid, or agreed to pay, a price lower than that fixed by the commission for milk of that class or grade.

It shall be unlawful for a milk dealer to sell or buy, or offer to sell or buy, milk at a price computed upon false or erroneous weight, butterfat test, grade or classification; or at a price from which have been made deductions not authorized by law or in excess of any deductions so authorized, whether such illegal deductions be in the form of excessive transportation charges or otherwise.

Section 808. Prices of Certain Milk.—It is hereby declared to be the legislative intent that the instant (whenever that may be) that the handling by a milk dealer of milk produced outside of the Commonwealth becomes a subject of regulation by the Commonwealth in the exercise of its police powers, the restrictions set forth in this act respecting such milk so produced shall apply, and the powers conferred on the commission by this act, and particularly by this article, shall attach; but such restrictions shall not apply to condensed or concentrated whole milk contained in hermetically sealed cans.

It is also hereby declared to be the legislative intent that the prices prescribed by the commission for milk produced in this Commonwealth, and sold in this Commonwealth for shipment into and sale in another state, shall not be destructive of the price structure of producers in such other state.

Section 809. Cooperatives.—It is hereby declared to be the legislative intent that no provision of this act shall prevent, and no provision contained herein shall be deemed or construed to prevent, any cooperative agricultural association or corporation organized under the laws of this Commonwealth, or a similar association or corporation organized under the laws of this or any other state, and engaged in making collective sales or in the marketing of milk for the producers thereof, from blend-

ing the net proceeds of its sales in all its markets or of its sales within any particular market in various classes and whether in fluid form or as manufactured products, both within and without the Commonwealth, and paying its producers such blended price, with such deductions and differentials as may be authorized under contract between such association or corporation, and its producers, or from making collective sales of the milk of its members and other producers represented by it, or from making such sales at a blended price based upon sales thereof in the various classes, and whether in fluid form or as manufactured products, both within and without the Commonwealth, which price is to be paid either directly to the producers or to the cooperative agricultural association or corporation. Nothing herein contained shall prevent any milk dealer from contracting for his milk with such cooperative agricultural association or corporation, upon such basis; but all such contracts shall be upon the basis of the prices fixed by the commission, with the result that the net price received for milk by such cooperative association or corporation shall be commensurate with such prices. No milk dealers, or agents thereof, shall receive from any producer or from such cooperative association or corporation, directly or indirectly, any discounts, rebates, free service, or compensation through rentals, extension of credit, or otherwise for the purpose, or with the effect, of reducing the net cost to the dealer for milk purchased by or through such cooperative association or corporation.

No provision of this act shall be deemed or construed to affect the contracts of such cooperative agricultural association or corporation with its producers, except as hereinafter specifically provided, nor to affect or abridge the rights and powers of such an association or any of its operations: Provided, however, That the powers of subpoena, entry, and inspection, vested in the commission under this act, shall apply for the purpose of examining and auditing books and records of any such cooperative agricultural association or corporation, at reasonable intervals, for the purpose of administering this act. This section shall not, however, be construed to exempt such association or corporation from the jurisdiction of the commission over the prices at which it may sell milk to milk dealers, stores or consumers.

Any cooperative agricultural association or corporation organized after the effective date of this act, or within ninety (90) days prior to the effective date hereof, or which, if organized over ninety (90) days prior to the effective date of this act, was not marketing milk for producers upon the effective date of this act, or ninety (90) consecutive days prior thereto, shall not be entitled to avail itself of the benefits of this section if it pays or

distributes to its producers a price which is more than one and one-half per centum ($1\frac{1}{2}\%$) lower than the prices prescribed by the commission, unless such association or corporation shall furnish reasonable proof to the commission that such one and one-half per centum ($1\frac{1}{2}\%$) is insufficient to pay such lawful expenses and charges for its operations and maintenance as may be authorized under the contracts between the association or corporation and its producers.

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

ARTICLE IX

APPEALS AND REVIEW

Section 901. Appeals from General Orders.—Any person aggrieved by an order of the commission fixing, revising or amending the price at, or the terms upon, which milk may be bought or sold, or by any other general action, rule, regulation or order of the commission, may, within twenty (20) days after the effective date of such action, rule, regulation or order, file an appeal therefrom in the Court of Common Pleas of Dauphin County. No such appeal shall be permitted to act as a supersedeas, except on special order of the court. Refusal by the commission of any application for revision or amendment, filed as provided in section eight hundred one, shall constitute an appealable action within the meaning of this section.

Section 902. Appeals from Special Orders.—Any person aggrieved by an order of the commission in which the commission refuses to issue, reissue or transfer, or revokes or suspends, a license to operate as a milk dealer, or by any other order of the commission applying only to a particular person or persons named therein and not otherwise specifically provided for, may, within twenty (20) days after the service of such order, file an appeal therefrom in the court of common pleas of the county in which he resides or has his principal place of business, or, in the case of a nonresident who has no place of business within the Commonwealth, in the Court of Common Pleas of Dauphin County. No such appeal shall be permitted to act as a supersedeas, except on special order of the court.

Section 903. Supersedeas.—A special order of court permitting an appeal to act as a supersedeas may be made only after reasonable notice to the commission, and shall provide that the appellant file a bond with sufficient sur-

eties, in such sum as shall be determined by the court to be necessary for the protection of producers and others during the pendency of the appeal.

Section 904. Pleading and Service.—The appeal provided by this article from action of the commission shall be by petition against the commission, officially as defendant, alleging therein in brief detail the action and decision complained of, and praying for a reversal thereof. Such petition shall specify the petitioner's objections to the action and decision of the commission, and shall state facts in support of such objections sufficient to constitute a *prima facie* case; and any objection not so specified and supported by facts shall not be considered by the court. Every such petition reciting facts shall be supported by oath or affirmation; and the petition shall include as part thereof, under oath or affirmation, an averment that the appeal is not filed merely for purposes of delay.

Upon service of a summons upon the commission, returnable at least ten (10) days from the date of service, the commission may, on or before the return day, file a motion to dismiss the appeal, raising questions of law or attacking the form or sufficiency of the petition. If such motion is not sustained, the commission shall be given leave to file an answer within not less than ten (10) days after the order of the court overruling the motion.

On or before the return day of such summons served upon the commission, or within the time allowed in an order of the court denying a motion to dismiss an appeal, the commission shall file an answer which shall deny or admit the allegations of fact in the petition, and which may also allege by way of defense the grounds for its action or decision.

Upon the filing of an answer by the commission, the case shall be at issue without further pleadings, and upon application of either party the case shall be advanced and heard without further delay.

Section 905. Certification of Record.—The commission shall, on the return day of such summons, or within a reasonable time thereafter, certify to the court the record of the proceedings to which the petition refers. Such record shall include the testimony taken therein, the findings of fact of the commission, a copy of all orders made by the commission pertaining to the proceedings, and a copy of the order, action or decision of the commission which the petition calls upon the court to reverse.

Section 906. Scope of Inquiry.—Mere technical irregularities in the procedure of the commission shall not be the basis of the decision of the court.

In an appeal from an order or decision of the commission applying only to the particular person or persons named therein, the case shall be heard upon the record

certified to the court by the commission. Additional testimony shall not be taken before the court, but the court may, in proper cases, remit the record to the commission for the taking of further testimony.

In an appeal from any general order of the commission, the case shall be heard by the court and testimony may be taken: Provided, however, That nothing herein shall be construed as relieving the appellant from submitting all essential facts in the first instance to the commission at its hearing held prior to the issuance of such order. All or any relevant part of the record certified to the court shall be admitted in evidence by order of the court or upon motion of either party. Where the petition and answer raise questions of fact, the petitioner or appellant shall proceed with evidence in support of the facts alleged in his petition. The commission shall then present evidence in support of the answer, which evidence may consist of, or include, the record or any part thereof. Any part of the record certified to the court, which is not based on technical rules of evidence customary in actions at law, shall not be disregarded by the court merely because of the violation of such rules.

Upon any appeal the court shall determine whether or not the order appealed from is reasonable and in conformity with law. The appellant shall have the burden of proving that an order of the commission is unreasonable or illegal. If the court shall determine that the order is unreasonable or illegal, it shall remit the case to the commission with directions to reform the findings or order, or to revoke the order, in accordance with the court's opinion.

Section 907. Costs.—The court shall have full power to assess the costs upon either party or to divide them between the parties.

Section 908. Jurisdiction of Superior and Supreme Courts.—From the decision of a court of common pleas, upon an appeal from an order of the commission applying only to the particular person or persons named therein, an appeal may be taken by either party to the Superior Court of Pennsylvania in the manner provided by law. From the decision of a court of common pleas, upon an appeal from a general rule, regulation or order of the commission, an appeal may be taken by either party to the Supreme Court of Pennsylvania in the manner provided by law.

ARTICLE X

PENALTIES AND REMEDIES

Section 1001. Summary Offenses.—Except as otherwise specially provided in this act, any person violating any provision of this act, or any rule, regulation or order of the commission lawfully made, shall for each offense,

upon conviction thereof in a summary proceeding, be sentenced to pay the costs of prosecution and a fine of not less than twenty-five dollars (\$25.00) nor more than three hundred dollars (\$300.00), and, in default thereof, to undergo imprisonment of not less than ten (10) days nor more than thirty (30) days.

Section 1002. Misdemeanors.—For a third or subsequent offense, any person violating any provision of this act, or any rule, regulation or order of the commission lawfully made, shall be guilty of a misdemeanor and shall, upon conviction thereof, be sentenced to pay a fine of not less than five hundred dollars (\$500.00) nor more than one thousand dollars (\$1,000.00), or to undergo imprisonment not exceeding one (1) year, or both, in the discretion of the court.

Section 1003. Actions to Enforce Compliance.—The commission or any person, marketing committee or association composed of persons affected by the orders, rules or regulations of the commission, may institute such action at law or in equity as may appear necessary to enforce compliance with any provision of this act, or to enforce compliance with any rule, regulation or order of the commission made pursuant to the provisions of this act.

Section 1004. Application for Injunction; Remedies.—In addition to any other remedy at law or in equity or under this act, the commission may apply to the Court of Common Pleas of Dauphin County for relief by injunction, or to the court of common pleas in the county wherein the defendant resides or has his principal place of business, to enforce compliance with or restrain violations of any provision of this act or any rule, regulation or order of the commission made pursuant thereto. The said Court of Common Pleas of Dauphin County is hereby clothed with jurisdiction to hear and determine all such actions by the commission, regardless of where they may arise in the Commonwealth. The commission shall not be required to file any bond in any action under this act.

The penalties and remedies prescribed in this act shall be deemed concurrent or contemporaneous, and the existence or exercise of any one remedy herein shall not prevent the commission from exercising any other remedy hereunder.

Section 1005. Proceedings Before the Commission.—Appropriate proceedings against any milk dealer violating this act or the rules, regulations or orders of the commission, may be instituted before the commission by any producer to whom the lawful price of milk has not been paid or to whom such price has not been fully paid, and such proceedings may also be instituted upon the commission's own motion.

Section 1006. Perjury.—Any person who shall wilfully and corruptly make a false oath or affirmation before the commission at any investigation or hearing, or in any report or statement authorized or required by this act, shall be guilty of perjury, and, on conviction, be subject to the penalties prescribed by law for wilfully and corruptly making false oath or affirmation.

ARTICLE XI

MONEYS AND EXPENSES OF COMMISSION

Section 1101. Milk Control Fund.—All moneys collected or received by the commission, arising from license fees, penalties, permits or any other source, shall be paid by the commission into the State Treasury through the Department of Revenue, and shall, by the State Treasurer, be placed in a separate fund to be known as the "Milk Control Fund." Fines imposed under this act shall be payable to, and collected by, the commission, and similarly placed in the Milk Control Fund.

Section 1102. Expenses.—As much of the money, from time to time, in the Milk Control Fund as may be necessary is hereby specifically appropriated to the Milk Control Commission to be used to pay its expenses, including the following:

(1) Salaries of the commission, of its employes, and of any deputy attorney general, special deputy attorney general, assistant deputy attorney general, or other counsel as may be assigned by the Department of Justice to the commission for the handling of any legal work, pertaining to its business.

(2) Rental and other expenses for offices, rooms, garage space and other accommodations outside of the Capitol Buildings, either in or outside of the capital city, occupied by the commission.

(3) Premiums for workmen's compensation insurance covering the officers and employes of the commission.

(4) Premiums for surety bonds for such officers or employes of the commission as may be required by law to furnish such bonds.

(5) Purchase and operating costs of motor vehicles required by the commission for full-time use, including premiums for liability insurance covering such motor vehicles and the members of the commission and employes operating them; also the amount payable to the Department of Property and Supplies for the use of automobiles supplied by it for temporary use by the commission.

(6) Furniture, stationery, materials, supplies and all other overhead expenses of the commission.

(7) All other expenses of every kind and description necessary for the performance by the commission of its work.

All such purchases and leases shall be made, and all such contracts of insurance and surety bonds shall be placed, through the Department of Property and Supplies as agent.

Section 1103. Refunds.—As much of the money, from time to time, in the Milk Control Fund, as may be necessary, is hereby appropriated to the Board of Finance and Revenue, for the payment of approved claims for refund made to the Board of Finance and Revenue, for moneys heretofore or hereafter paid into the Milk Control Fund, to which the Commonwealth is not rightfully entitled.

Section 1104. Approval of Governor.—Estimates of the amounts to be expended under this act by the Milk Control Commission, either itself, or through the Department of Property and Supplies as purchasing agent, or by the Board of Finance and Revenue in the payment of claims for refund, shall be submitted to the Governor from time to time for his approval or disapproval, as in the case of other appropriations made to administrative departments, boards and commissions, and it shall be unlawful for the Auditor General to honor any requisition for the expenditure of any moneys out of this appropriation by the Milk Control Commission, or by the Department of Property and Supplies as its agent, or by the Board of Finance and Revenue, in excess of the estimates approved by the Governor. Subject to this provision, the Auditor General shall, from time to time, draw warrants upon the State Treasury for the amounts specified in such requisitions, not exceeding, however, the amount in the Milk Control Fund at the time of the making of any such requisition.

Section 1105. Miscellaneous Fees.—The commission shall charge and collect the following fees for the following services:

For copies of papers, testimony and records, the fee shall be twenty cents (\$0.20) per page.

For certifying a copy of any paper or testimony, two dollars (\$2.00).

For certifying a copy of a record for proceedings upon appeal, five dollars (\$5.00), in appeals from special orders, and ten dollars (\$10.00) in appeals from general orders.

Section 1106. Appropriations.—The unexpended balance existing on the effective date of this act in the Milk Control Fund, under the provisions of the act, approved the thirtieth day of April, one thousand nine hundred thirty-five (Pamphlet Laws, ninety-six), is hereby transferred to the Milk Control Fund created by this act, and is hereby appropriated to the Milk Control Commission, for the same purposes for which the moneys in such fund are hereinbefore appropriated by this act.

In addition to any other appropriation made by this act, the sum of three hundred thousand dollars (\$300,000.00), or as much thereof as may be necessary, is hereby specifically appropriated out of the General Fund to the Milk Control Commission for its use in administering the provisions of this act during the period beginning with the first day of June, one thousand nine hundred thirty-seven, and ending on the thirty-first day of May, one thousand nine hundred thirty-nine.

The unexpended balance existing on the effective date of this act in any appropriation made out of the General Fund to the Milk Control Board of the Commonwealth of Pennsylvania, is hereby transferred* and appropriated to the Milk Control Commission, for the fiscal period ending May thirty-first, one thousand nine hundred thirty-seven, for the same purposes as expressed in the act making such appropriation, and any such unexpended balance also is hereby appropriated to the Milk Control Commission for the payment of any bills or encumbrances incurred by the Milk Control Board of the Commonwealth of Pennsylvania prior to, and remaining unpaid, on the effective date of this act.

ARTICLE XII

SAVING PROVISIONS

Section 1201. Severability.—It is hereby declared to be the legislative intent that if this act cannot take effect in its entirety because of the decision of any court holding unconstitutional any part, sentence or clause hereof, the remaining provisions of the act shall be given full force and effect as completely as if the part held unconstitutional had not been included herein.

It is hereby declared as the intent of the Legislature that every other part, sentence or clause of this act would have been enacted had such unconstitutional provision not been included herein.

Section 1201. Interstate Commerce.—No provision of this act shall apply, or be construed to apply, to foreign or interstate commerce, except in so far as the same may be effective in accordance with the Constitution of the United States and the laws of the United States enacted pursuant thereto.

Section 1203. Effect upon Proceedings, Duties and Rights under Other Acts of Assembly.—All rules, regulations, orders, suits, hearings, investigations, prosecutions and all other proceedings or actions of any kind whatsoever of the Milk Control Board of the Commonwealth of Pennsylvania, as created or continued under acts of Assembly prior to the effective date of this act and repealed hereby, in existence or pending prior to or upon the effective date of this act, and all penalties, ob-

* "transferred" in the original.

ligations, appeals or violations of milk dealers and others under said rules, regulations, orders and prior acts of Assembly incurred, pending or accrued prior to or upon the effective date of this act, shall be saved and continued in every manner and for all purposes after the effective date of this act, and shall be continued under the provisions hereof. All employes, papers and possessions of such predecessor board shall become the employes, papers and possessions of and subject to the commission created by this act.

The repeal by this act of any other act shall not impair, repeal, or affect* any act done, bond posted, offense committed, liability, penalty or judgment incurred, or rule, regulation or order issued prior to the time this act takes effect, but the same may be enforced, prosecuted or inflicted under the provisions of this act to the same extent as if such other act had not been repealed or had not expired.

All licenses, permits, certificates, rules, regulations and orders issued or made under any act repealed by this act, and in full force and effect upon the effective date of this act, shall remain in full force and effect for the term issued or until revoked, suspended or superseded under the provisions of this act or rules, regulations or orders of the commission made hereunder.

ARTICLE XIII

REPEALS AND EFFECTIVE DATE

Section 1301. Acts Specifically Repealed.—The following acts are hereby specifically repealed, except in so far as necessary to sustain or maintain the validity, prosecution or enforcement of any act done, bond posted, offense committed, liability, penalty or judgment incurred, or rule, regulation or order issued thereunder, and saved or continued by this act:

The act approved the fifteenth day of April, one thousand nine hundred seven (Pamphlet Laws, sixty-three), entitled "An act regulating the sale of milk, skim-milk, and cream; establishing the standard of measurement; and providing for the enforcement thereof.

The act approved the sixth day of May, one thousand nine hundred 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."

The act approved the thirty-first day of May, one thousand nine hundred thirty-three (Pamphlet Laws,

* "effect" in the original.

one thousand one hundred twenty-six), entitled "An act requiring certain persons, associations, copartnerships, and corporations to keep full accounts and records with respect to the sales and transactions relating to dairy products and to submit the same to inspection by the Secretary of Agriculture, and prescribing the effect of failure to comply with the orders of the Secretary of Agriculture; providing penalties, and prescribing remedies; and by further regulating the issuance and revocation of permits as provided by 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."

The act approved the second day of January, one thousand nine hundred thirty-four (One thousand nine hundred thirty-three-One thousand nine hundred thirty-four, Pamphlet Laws, one hundred seventy-four), entitled "An act relating to milk and the products thereof; declaring an emergency with respect to their production and marketing; creating a Milk Control Board; establishing its jurisdiction, powers and duties; regulating the production, transportation, manufacture, processing, storage, distribution, delivery, and sale of milk and the products thereof; providing for the licensing of milk dealers and the payment of fees therefor; requiring licensees to furnish bonds for the protection of producers; authorizing the examination of the business, papers, and affairs of, and requiring the filing of reports by, licensees, other milk dealers and producers, and permitting with limitations the dissemination of information obtained therefrom; authorizing the issuance of subpoenas by the board or its agents, and conferring jurisdiction upon courts to punish contempts or to prohibit violations of orders of the board; providing for appeals to the courts from decisions of the Milk Control Board; imposing penalties; and making an appropriation."

The act approved the thirtieth day of April, one thousand nine hundred thirty-five (Pamphlet Laws, ninety-six), entitled "An act to re-enact and amend the title and the act, approved the second day of January, one thousand nine hundred thirty-four (One thousand nine hundred thirty-three-One thousand nine hundred thirty-four, Pamphlet Laws, one hundred seventy-four), entitled 'An act relating to milk and the products thereof; declaring an emergency with respect to their produc-

tion and marketing; creating a Milk Control Board; establishing its jurisdiction, powers and duties; regulating the production, transportation, manufacture, processing, storage, distribution, delivery, and sale of milk and the products thereof; providing for the licensing of milk dealers and the payment of fees therefor; requiring licensees to furnish bonds for the protection of producers; authorizing the examination of the business, papers, and affairs of, and requiring the filing of reports by, licensees, other milk dealers and producers, and permitting with limitations the dissemination of information obtained therefrom; authorizing the issuance of subpoenas by the board or its agents, and conferring jurisdiction upon courts to punish contempts or to prohibit violations of orders of the board; providing for appeals to the courts from decisions of the Milk Control Board; imposing penalties; and making an appropriation,' by extending the provisions of the act for a further period of time; prohibiting the sale of milk in certain cases; enlarging and modifying the definition of milk to include ice cream mix, powdered whole milk, and powdered skimmed milk; changing, adding to, and increasing license fees, and further prescribing the method of computing such fees, requiring all licensees to file bonds or collateral without any exceptions; providing for a supersedeas in certain cases of appeal; conferring certain powers upon the Governor; conferring upon the board certain additional powers over cooperative agricultural associations or corporations, also over milk prices; and authority to establish marketing area enforcement committees; providing new, and changing existing notices and penalties; and making an appropriation."

The act approved the ninth day of July, one thousand nine hundred thirty-five (Pamphlet Laws, six hundred fourteen), entitled "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 1302. Effective Date.—This act shall become effective immediately upon its final enactment. When effective.

APPROVED—The 28th day of April, A. D. 1937.

GEORGE H. EARLE

— — — — —
No. 106

AN ACT

Increasing the number of courts of common pleas in the County of Philadelphia; establishing therein a distinct and separate court of common pleas designated court of common pleas number seven; and providing for the election and appointment of judges for said court.

Section 1. Be it enacted, &c., That there shall be and hereby is established in the County of Philadelphia a distinct and separate court of common pleas to be designated court of common pleas number seven of Philadelphia County, composed of three judges learned in the law, who shall hold office for the same term and with like powers, duties, authority and compensation, and with like and equal constitution and coordinate jurisdiction with courts of common pleas numbers one, two, three, four, five, and six of said county and the judges thereof, respectively.

Common pleas court No. 7 created in Philadelphia County.

Section 2. Three judges of the said court of common pleas number seven of Philadelphia County, learned in the law, shall be elected by the duly qualified electors of said county at the next municipal election in November, one thousand nine hundred thirty-seven, and the three candidates who then receive the highest vote shall be declared elected, one of said judges, to be designated as required by the Constitution of the Commonwealth, shall be president judge of said court. Said judges shall be duly commissioned as judges aforesaid and shall enter upon the discharge of their duties respectively, on the first Monday of January next following their election. The successors of said judges, respectively, shall be elected or appointed as required by law.

Three judges of the court to be elected at the municipal election in 1937 to be commissioned on the first Monday of January, 1938.

Section 3. The Governor is hereby authorized to appoint three competent persons, learned in the law, as judges of said court until the first Monday of January succeeding the next municipal election, one of whom shall be designated as president judge for said period.

Governor to appoint 3 judges to serve until first Monday of January, 1938.

Section 4. All acts or parts of acts inconsistent herewith are hereby repealed.

Inconsistent acts repealed.