

## No. 1988-135

## AN ACT

## HB 2100

Amending the act of July 1, 1978 (P.L.730, No.132), entitled "An act establishing fees for certain licenses, certificates and activities relating to milk marketing and making certain repeals," providing for setting of fees by regulation.

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

Section 1. Sections 3, 4, 5, 6, 7, 8, 9 and 10 of the act of July 1, 1978 (P.L.730, No.132), known as the Milk Marketing Fee Act, are amended to read:

Section 3. Milk dealer license fees generally.

(a) The Milk Marketing Board shall charge and collect license fees from milk dealers on a yearly basis, as follows:

(1) Fixed fee per milk dealer, **a license fee of \$50**.

(2) Addition to fixed fee, for milk on which board fixes prices under the provisions of the "Milk Marketing Law," received, produced or brought within the Commonwealth during the calendar year preceding the period for which the license is issued, **a license fee of one hundred seventy-five ten-thousandths of a dollar (.0175) per hundredweight**.

(3) Addition to fixed fee, for all other milk on which price is not fixed under, received, produced or brought within the Commonwealth during the calendar year preceding the period for which the license is issued, **a license fee of fifteen ten-thousandths of a dollar (.0015) per hundredweight**. The provisions of this subsection do not apply to subdealers, subhandlers or stores.

(b) The board shall charge and collect license fees from subdealers on an annual basis **[of \$37.50 for each route owned or operated at the commencement of the license period]**.

(c) *All fees required by subsections (a) and (b) shall be fixed by the board by regulation subject to the act of June 25, 1982 (P.L.633, No.181), known as the "Regulatory Review Act." The board may, in its discretion, increase any such fee by regulation from time to time.*

[(c)] (d) Except as otherwise expressly provided by law, 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 board declines to grant a license to the applicant, the license fee shall be charged and retained by the board only pro rata for so much of the license year as expired prior to the issuance of the order refusing the license.

[(d)] (e) The board by regulation may establish a payment schedule for licensees on a quarterly, semiannual or other basis.

**Section 4. License fees for certain milk dealers.**

**[(a) Milk dealers who are not engaged in the milk business at the commencement of the license period shall pay a proportionate amount of the specific annual fee as follows:**

**(1) For a license issued on or after October 1, but prior to January 1, \$37.50.**

**(2) For a license issued on or after January 1, but prior to April 1 of the succeeding year, \$25.**

**(3) For a license issued on or after April 1, but prior to July 1, \$12.50.]**

***(a) Milk dealers who are not engaged in the milk business at the commencement of the license period shall pay a proportionate amount of the specific annual fee as fixed by regulation of the board subject to the act of June 25, 1982 (P.L.633, No.181), known as the "Regulatory Review Act."***

***(b) (1) Milk dealers not engaged in the milk business for the complete preceding calendar year shall submit with their application a license fee as [provided by this section] fixed by regulation of the board subject to the "Regulatory Review Act," and, in addition thereto, at such time or times and in such amount or amounts as the board may fix[,] by regulation subject to the "Regulatory Review Act," shall pay on a monthly basis an additional license fee of [one hundred seventy-five ten-thousandths of a dollar (.0175)] a certain amount set by the board per hundredweight on all milk the prices of which the board fixes under the provisions of the "Milk Marketing Law," and a license fee of [fifteen ten-thousandths of a dollar (.0015)] a certain amount set by the board per hundredweight on all other milk on which the price is not fixed by the board, received, produced or brought within the Commonwealth by the dealer during the preceding month.***

***(2) The payments required in paragraph (1) shall continue until the dealer has been engaged in the milk business for a full year at which time the board shall establish payment of a license fee based on the provisions of section 3.***

***(3) The provisions of this subsection do not apply to subdealers, subhandlers or stores.***

**Section 5. Computation of license fees.**

Milk sold and distributed outside of this Commonwealth in any state which charges milk dealers or handlers a license fee may be deducted in the determination of the amount of the license fee required by this act, on the condition, 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 board, the fluid milk equivalent of milk other than fluid milk, shall be ascertained and fixed in such manner as the board shall prescribe, except in the case of farm-separated sour cream used exclusively in making butter to be marketed or ultimately sold as such, in which case the total quantity of such milk shall be computed according to pounds of butterfat of sour cream rather than the fluid milk equivalent thereof. 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 or

handler from another milk dealer or handler, 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 or handler and not sold by him to stores or consumers. Applicant milk dealers or handlers, other than subdealers or subhandlers, receiving their entire supply from milk dealers or handlers who have paid a license fee thereon to this board, shall pay the license fee [of \$50.] *fixed by regulation of the board subject to the act of June 25, 1982 (P.L.633, No.181), known as the "Regulatory Review Act."*

Section 6. Milk Haulers License.

The annual fee for a Milk Haulers License shall be [\$30.] *in an amount fixed by regulation of the board subject to the act of June 25, 1982 (P.L.633, No.181), known as the "Regulatory Review Act."*

Section 7. Fees for milk tester's certificates.

The fee for a certificate of proficiency in milk testing [shall be \$25. The] *and the fee for an annual milk tester's certificate shall be [\$20.] in amounts fixed by regulation of the board subject to the act of June 25, 1982 (P.L.633, No.181), known as the "Regulatory Review Act."*

Section 8. Fees paid by milk weighers and samplers.

The fee for a certificate of proficiency in milk weighing and sampling [shall be \$15. The] *and the fee for an annual milk weighing and sampling certificate shall be [\$15.] in amounts fixed by regulation of the board subject to the act of June 25, 1982 (P.L.633, No.181), known as the "Regulatory Review Act."*

Section 9. Transfer fee.

The fee for transfer of a license issued under the act of April 28, 1937 (P.L.417, No.105), known as the "Milk Marketing Law," shall be [\$10.] *in an amount fixed by regulation of the board subject to the act of June 25, 1982 (P.L.633, No.181), known as the "Regulatory Review Act."*

Section 10. Miscellaneous fees.

The Milk Marketing Board shall charge and collect fees for providing copies of or for certification of papers, testimony and records. The fees shall be collected from the persons requesting the documents or certification and shall be in such amount as to fully offset the costs incurred by the board in providing the documents or certification. *All fees required by this section shall be fixed by regulation of the board subject to the act of June 25, 1982 (P.L.633, No.181), known as the "Regulatory Review Act."*

Section 2. The act is amended by adding a section to read:

*Section 10.1. Disposition of fees.*

*All fees imposed and collected in accordance with this act shall be for the exclusive use by the Pennsylvania Milk Marketing Board in carrying out the provisions of this act, the act of April 28, 1937 (P.L.417, No.105), known as the "Milk Marketing Law," and the act of July 6, 1984 (P.L.652, No.136), known as the "Milk Producers' Security Act."*

Section 3. All fees specified in or fixed in accordance with the Milk Marketing Fee Act and in effect on the day before the effective date of this act shall continue in effect until changed in accordance with the amendments made by this act.

Section 4. This act shall take effect immediately.

APPROVED—The 5th day of December, A. D. 1988.

ROBERT P. CASEY