

No. 2019-36

AN ACT

HB 1520

Amending Title 3 (Agriculture) of the Pennsylvania Consolidated Statutes, in Pennsylvania Preferred® Trademark, further providing for Pennsylvania Preferred® Trademark Licensing Fund and providing for military veterans; providing for grant programs; and making editorial changes.

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

Section 1. Chapter 46 of Title 3 of the Pennsylvania Consolidated Statutes is amended by adding a subchapter heading immediately preceding section 4601 to read:

SUBCHAPTER A
GENERAL PROVISIONS

Section 2. Chapter 46 of Title 3 is amended by adding a subchapter heading immediately preceding section 4603 to read:

SUBCHAPTER B
PENNSYLVANIA PREFERRED® PROGRAM

Section 3. Sections 4603, 4604, 4605, 4606 and 4607 of Title 3 are renumbered to read:

§ [4603] **4611.** Pennsylvania Preferred® trademark.

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

§ [4604] **4612.** Licensee qualification.

A qualified entity shall meet at least one of the following requirements to become a licensee:

(1) Be a person that produces an agricultural commodity:

(i) that is entirely harvested from a Pennsylvania location or is grown at a Pennsylvania location for at least 75% of the commodity's production cycle; and

(ii) that, if inspected by the department, the USDA, the FDA or an independent certifying agency approved by the department, is approved by the inspecting authority as meeting all applicable quality, sanitation, safety and labeling standards of that inspecting authority.

(2) Be a person that processes an agricultural commodity:

(i) in whole or in part at a facility which is located within this Commonwealth; and

(ii) in whole or in part at a facility, which, if the agricultural commodity is intended for human consumption, is in compliance with

Subchapter B of Chapter 57 (relating to food safety) and all applicable Federal and State food quality, sanitation, safety and labeling standards regulations; and

(iii) the use of which, to the maximum extent possible given production season restrictions or market availability, is a Pennsylvania-produced agricultural commodity.

(3) Be a person that promotes or markets an agricultural commodity from a person that meets the provisions of paragraph (1) or (2).

(4) Be a public eating and drinking place licensed under and in compliance with Subchapter A of Chapter 57 (relating to retail food facility safety) or under the act of August 24, 1951 (P.L.1304, No.315), known as the Local Health Administration Law, which offers a menu item that includes an agricultural commodity from a person that meets the provisions of paragraph (1) or (2).

(5) Be a person approved by the department to use and promote the use of the Pennsylvania Preferred® trademark to constituencies in furthering the purposes of this chapter.

§ [4605] 4613. Duties and authority of department.

(a) Department authority to enter into trademark license agreements.—

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

(2) The department shall establish the terms and conditions under which a person may be licensed to use the Pennsylvania Preferred® trademark. Terms and conditions shall require a licensee to produce, process, promote or market an agricultural commodity in a manner acceptable to the department which protects the reputation of the Pennsylvania Preferred® trademark.

(3) The department may periodically review a licensing agreement to determine if the terms are being met.

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

§ [4606] 4614. Trademark license agreement, application and licensure process.

(a) General rule.—

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

(2) An application shall be on a form prepared by the department and shall require identification information and other information the department deems necessary to determine if an applicant is a qualified entity.

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

(4) The department shall have the discretion to determine whether a person is a qualified entity for purposes of this chapter.

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

(6) A trademark license agreement under this chapter shall be effective for one year from the date upon which an agreement is executed and may be renewed. An agreement shall contain provisions allowing for

the termination of the license agreement by the department or a licensee upon 60 days' advance written notice to the other party.

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

§ [4607] 4615. Costs.

Reimbursement of costs are as follows:

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

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

Section 4. Section 4608 of Title 3 is amended to read:

§ [4608] 4616. Pennsylvania Preferred® Trademark Licensing Fund.

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

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

(2) Funds derived from the costs established under section [4607] 4615 (relating to costs).

(3) Funds derived from civil penalties collected by the department under section [4609] 4617 (relating to civil penalties).

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

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

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

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

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

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

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

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

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

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

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

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

Section 5. Section 4609 of Title 3 is renumbered to read:

§ **[4609] 4617**. Civil penalties.

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

Section 6. Section 4610 of Title 3 is amended to read:

§ **[4610] 4618**. Injunctive relief.

In addition to any other remedies provided for under this chapter, the Attorney General, at the request of the department, may initiate, in the Commonwealth Court or the court of common pleas of the county in which the defendant resides or has his place of business, an action in equity for an injunction to restrain violations of this chapter or a trademark license agreement. In the proceeding, the court shall, upon motion of the Commonwealth, issue a preliminary injunction if it finds that the defendant is engaging in unlawful conduct under this chapter or is engaging in conduct which is causing immediate or irreparable harm to the public. The Commonwealth shall not be required to furnish bond or other security in connection with the proceedings. In addition to an injunction, the court, in equity proceedings, may levy civil penalties as provided under section **[4609] 4617** (relating to civil penalties).

Section 6.1. Section 4611 of Title 3 is renumbered to read:

§ **[4611] 4619**. Rules and regulations.

The department shall promulgate rules and regulations necessary to promote the efficient, uniform and Statewide administration of this chapter. For two years from the effective date of this section, the department shall have the power and authority to promulgate, adopt and use guidelines to implement the provisions of this chapter. The guidelines shall be published in the Pennsylvania Bulletin but shall not be subject to review under section

205 of the act of July 31, 1968 (P.L.769, No.240), referred to as the Commonwealth Documents Law, sections 204(b) and 301(10) of the act of October 15, 1980 (P.L.950, No.164), known as the Commonwealth Attorneys Act, or the act of June 25, 1982 (P.L.633, No.181), known as the Regulatory Review Act. All guidelines shall expire no later than December 31, 2013, and shall be replaced by regulations which shall have been promulgated, adopted and published as provided under law.

Section 7. Chapter 46 of Title 3 is amended by adding subchapters to read:

SUBCHAPTER C
(Reserved)

SUBCHAPTER D
MILITARY VETERANS

Sec.

4631. Purpose.

4632. Definitions.

4633. Qualified veterans and qualified veteran business entities.

§ 4631. Purpose.

The purpose of this subchapter is to:

(1) Benefit qualified veterans and qualified veteran business entities that are licensed by the department under Subchapter B (relating to Pennsylvania Preferred® Program) by allowing and encouraging the use of other trademarks or descriptive labels, packaging or advertisement information to inform consumers that agricultural commodities were produced by veterans of the armed forces of the United States.

(2) Encourage qualified veterans and qualified veteran business entities to avail themselves of marketing opportunities for Pennsylvania-produced agricultural commodities through licensure under Subchapter B and partnership with organizations such as the Farmer Veteran Coalition Homegrown By Heroes program and similar programs intended to encourage veterans to farm or to otherwise benefit farmers who are veterans.

§ 4632. Definitions.

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

"Qualified veteran." A qualified entity who:

(1) is a veteran of one or more of the armed forces of the United States, including the United States Army, the United States Navy, the United States Marine Corps, the United States Air Force or the United States Coast Guard; and

(2) has received an honorable discharge or a general discharge under honorable conditions.

"Qualified veteran business entity." A qualified entity to which the following apply:

(1) The entity is a corporation, partnership, association or other business organization.

(2) Qualified veterans make up 50% or more of the entity's ownership and a minimum of 50% of the entity's management control.

§ 4633. Qualified veterans and qualified veteran business entities.

(a) Encouragement of participation.—The department shall promote participation under this subchapter by qualified veterans and qualified veteran business entities and shall conduct outreach and education efforts to encourage and facilitate veteran participation.

(b) Coordination of effort.—The department shall cooperate with military, government or private sector marketing efforts that identify, emphasize and encourage the production and marketing of Pennsylvania-produced agricultural commodities by qualified veterans and qualified veteran business entities and may allow the use of the Pennsylvania Preferred® trademark in a cooperative effort.

Section 8. Title 3 is amended by adding a part to read:

**PART IX
GRANT PROGRAMS**

Chapter

- 101. Very Small Meat Processor Federal Inspection Reimbursement Grant Program*
103. (Reserved)

**CHAPTER 101
VERY SMALL MEAT PROCESSOR FEDERAL INSPECTION
REIMBURSEMENT GRANT PROGRAM**

Sec.

10101. Short title of chapter.

10102. Legislative intent.

10103. Definitions.

10104. Grant program.

10105. Eligible costs.

10106. Final reimbursement.

§ 10101. Short title of chapter.

This chapter shall be known and may be cited as the Very Small Meat Processor Federal Inspection Reimbursement Grant Program.

§ 10102. Legislative intent.

It is the intent of the General Assembly that very small meat processors be offered reimbursement grants to cover the costs associated with meeting Federal inspection and certification guidelines during the planning and start-up periods for these operations.

§ 10103. Definitions.

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

"Person." *An individual, partnership, association, firm, corporation or any other legal entity.*

"Very small meat processor." *A person subject to Federal meat inspection that meets the United States Department of Agriculture's definition of a "very small processor," having fewer than 10 employees or annual sales of less than \$2,500,000.*

§ 10104. Grant program.

(a) Availability.—*Grants under this chapter shall only be offered in a fiscal year in which and to the extent that funding is made available to the department. The following shall apply:*

(1) *In the event funding is exhausted or otherwise unavailable, the department shall be under no obligation to provide grants under this chapter.*

(2) *Grant money may be prorated or offered as a percentage of actual costs, as determined by the department and set forth in an order by the secretary, to spread available money to a larger number of eligible applicants. The secretary shall transmit notice of an order issued under this chapter to the Legislative Reference Bureau for publication in the Pennsylvania Bulletin.*

(b) Reimbursement grants.—*A grant under this chapter shall be a reimbursement grant. The following shall apply:*

(1) *The amount of reimbursement shall be based on actual eligible costs submitted by an approved applicant during a fiscal year in which grants are offered.*

(2) *Grant reimbursement money shall only be available for the eligible costs of obtaining a Federal certification to allow the sale of meat by a very small meat processor.*

(c) Eligibility.—*A very small meat processor may apply to receive reimbursement for the cost of meeting Federal inspection guidelines during the planning and start-up periods for the operations. The applicant must be in compliance with all applicable Federal licensure, recordkeeping and slaughter requirements.*

(d) Application procedure.—*An applicant who desires to receive a very small meat processor Federal inspection reimbursement grant shall submit a grant application on a form provided by the department. The application shall contain the following information demonstrating and attesting to:*

(1) *The applicant's name, the organization name, a business address and a telephone number.*

(2) *A list of corporate officers.*

(3) *The applicant's eligibility, setting forth information evidencing and attesting that the applicant meets the definition of a "very small meat processor."*

(4) *A plan outlining the process being undertaken to apply for and obtain Federal certification as a meat processor.*

(5) *The estimated costs for which reimbursement is sought.*

(6) *An attestation signed by the applicant stating the applicant is in good standing with all Federal licensure, recordkeeping and slaughter requirements, including the Federal Hazard Analysis Critical Control Point standards.*

§ 10105. Eligible costs.

The following costs shall be eligible for reimbursement:

(1) *Invoiced costs directly incurred for the initial compliance inspection.*

(2) *A one-time reimbursement for the cost, not including man hours, directly incurred in producing the required Federal Hazard Analysis Critical Control Point plan. If a professional consultant is utilized to develop the Federal Hazard Analysis Critical Control Point plan, reasonable costs may be reimbursed, as determined by the department.*

(3) *Up to 50% of the actual costs of a first-time purchase of equipment necessary for compliance with the Federal Hazard Analysis Critical Control Point plan.*

§ 10106. Final reimbursement.

(a) *Required submission.—Reimbursement shall be based on the approved applicant's submission of the final costs of obtaining the required Federal certification for which grant money was sought. The submission shall include:*

(1) *The date of the inspection.*

(2) *The name of the Federal inspector or veterinarian in charge of the inspection.*

(3) *A document signed by the Federal inspector or veterinarian in charge evidencing that the approved applicant's establishment passed the inspection.*

(4) *Documentation of actual costs for which reimbursement is sought and payment of the costs.*

(b) *Distribution of final reimbursement.—Distribution of grant money to the approved applicant will occur upon the following:*

(1) *Submission and receipt of the information required under subsection (a).*

(2) *Final review and approval for completeness of the required submission and the eligible costs.*

(3) *A completed grant agreement between the department and an approved applicant.*

(c) *Assignment of grant money.—Grant money may only be distributed to the owner of the eligible establishment. The department may not assign grant money to a lessee, operator or person other than the owner of the eligible very small meat processing establishment.*

CHAPTER 103

(Reserved)

Section 9. This act shall take effect in 60 days.

APPROVED—The 1st day of July, A.D. 2019

TOM WOLF