

store or other mercantile establishment, with the intention of converting the same to his own use without paying the purchase price thereof, shall be guilty of shoplifting, and, upon conviction thereof in a summary proceeding, shall be sentenced to pay a fine of not less than twenty-five dollars (\$25) and not more than [fifty dollars (\$50)] five hundred dollars (\$500), or to undergo imprisonment of not less than five (5) days and not more than [ten (10)] ninety (90) days, or both. Any fine imposed in a summary proceeding pursuant to the provisions of this section shall be decreed to be paid to the city, borough, town or township in which the offense was committed, for the use of such city, borough, town or township.

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APPROVED—The 30th day of November, A. D. 1967.

RAYMOND P. SHAFER

No. 309

AN ACT

HB 1512

Amending the act of April 18, 1945 (P. L. 253), entitled "An act relating to suits by shareholders against officers or directors in a corporation, domestic or foreign, to enforce a secondary right because the corporation refuses to enforce rights, which may be asserted by it, requiring that plaintiff be a shareholder at the time of the transaction of which he complains, or that his shares thereafter devolved upon him by operation of law; requiring security for defendant's expenses including attorneys' fees; and providing for the assessment and recovery of such expenses, including attorneys' fees," further providing for the powers of corporations to indemnify directors, officers and other persons against certain expenses, judgments, fines and other amounts and to maintain insurance against any liability asserted against directors, officers and other persons.

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

Section 1. Section 4, act of April 18, 1945 (P. L. 253), entitled "An act relating to suits by shareholders against officers or directors in a corporation, domestic or foreign, to enforce a secondary right because the corporation refuses to enforce rights, which may be asserted by it, requiring that plaintiff be a shareholder at the time of the transaction of which he complains, or that his shares thereafter devolved upon him by operation of law; requiring security for defendant's expenses, including attorneys' fees; and providing for the assessment and recovery of such expenses, including attorneys' fees," added October 13, 1959 (P. L. 1298), is amended to read:

Section 4. (a) Any corporation, organized under the laws of this Commonwealth, whether a stock corporation or organized on the mutual plan without capital stock, shall have power to indemnify any [and all of its directors or officers, or former directors or officers, or any person who may have served at its request as a director or officer of another corporation in which it owns shares of capital stock or of which it is a creditor, against expenses actually and necessarily incurred by them in connection with the defense of any action, suit or proceeding in which they, or any of them, are made parties or a party by reason of being or having been directors or officers or a director or officer of the corporation or of such other corporation, except that no corporation shall have power to so indemnify any such person against expenses incurred in defense of any action, suit or proceeding in which he shall be adjudged liable for negligence or misconduct in the performance of duty, or in defense of suits described in section 1 of this act to the extent that the court having jurisdiction thereof has assessed such expenses upon such person in accordance with section 3 of this act. Such indemnification shall not be deemed exclusive of any other rights to which those indemnified may be entitled under any by-law, agreement, vote of shareholders or otherwise.] person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the corporation) by reason of the fact that he is or was a director, officer, employe or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employe or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit or proceeding if he acted in good faith and in a manner he reasonably believed to be in, or not opposed to, the best interests of the corporation, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he reasonably believed to be in, or not opposed to, the

best interests of the corporation, and, with respect to any criminal action or proceeding, had reasonable cause to believe that his conduct was unlawful.

(b) A corporation shall have power to indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action or suit by or in the right of the corporation to procure a judgment in its favor by reason of the fact that he is or was a director, officer, employe or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employe or agent of another corporation, partnership, joint venture, trust or other enterprise against expenses (including attorneys' fees) actually and reasonably incurred by him in connection with the defense or settlement of such action or suit if he acted in good faith and in a manner he reasonably believed to be in, or not opposed to, the best interests of the corporation and except that no indemnification shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable for negligence or misconduct in the performance of his duty to the corporation unless and only to the extent that the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which the court shall deem proper.

(c) To the extent that a director, officer, employe or agent of a corporation has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in subsections (a) and (b), or in defense of any claim, issue or matter therein, he shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by him in connection therewith.

(d) Any indemnification under subsections (a) and (b) (unless ordered by a court) shall be made by the corporation only as author-

ized in the specific case upon a determination that indemnification of the director, officer, employe or agent is proper in the circumstances because he has met the applicable standard of conduct set forth in subsections (a) and (b). Such determination shall be made (1) by the board of directors by a majority vote of a quorum consisting of directors who were not parties to such action, suit or proceeding, or (2) if such a quorum is not obtainable, or, even if obtainable a quorum of disinterested directors so directs, by independent legal counsel in a written opinion, or (3) by the stockholders or members of the corporation.

(e) Expenses incurred in defending a civil or criminal action, suit or proceeding may be paid by the corporation in advance of the final disposition of such action, suit or proceeding as authorized in the manner provided in subsection (d) upon receipt of an undertaking by or on behalf of the director, officer, employe or agent to repay such amount unless it shall ultimately be determined that he is entitled to be indemnified by the corporation as authorized in this section.

(f) The indemnification provided by this section shall not be deemed exclusive of any other rights to which those indemnified may be entitled under any by-law, agreement, vote of stockholders or members or disinterested directors or otherwise, both as to action in his official capacity and as to action in another capacity while holding such office, and shall continue as to a person who has ceased to be a director, officer, employe or agent and shall inure to the benefit of the heirs, executors and administrators of such a person.

(g) A corporation shall have power to purchase and maintain insurance on behalf of any person who is or was a director, officer, employe or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employe or agent of another corporation, partnership, joint venture, trust or other enterprise against any liability asserted against him and incurred by him

in any such capacity, or arising out of his status as such, whether or not the corporation would have the power to indemnify him against such liability under the provisions of this section. Such insurance is declared to be consistent with the public policy of this Commonwealth.

APPROVED—The 30th day of November, A. D. 1967.

RAYMOND P. SHAFER

No. 310

AN ACT

SB 640

Authorizing the Department of Agriculture to establish facilities for and to conduct official egg-laying and pullet growing research tests; providing facilities for the same on property now under the control of The Pennsylvania State University; and providing for the disposition of income accruing under the act.

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

Section 1. The Department of Agriculture, hereinafter termed "department" is hereby authorized to establish facilities for, and thereafter to conduct and maintain during each year, a Pennsylvania Official Egg-laying Research Test and a Pennsylvania Official Pullet Growing Research Test, in order to determine and demonstrate improved and better methods for increasing the egg production of poultry, to afford farmers and poultry raisers official accreditation for the egg-laying capacity of their poultry, to determine the best techniques and methods in economically growing pullets for commercial purposes, and to determine meat yields and profit potentials of various breeds of poultry.

Section 2. The buildings and facilities for such research tests shall be erected or established and the tests shall be conducted upon such land of The Pennsylvania State University as the Governor shall specify in and by appropriate document, which shall be filed in the Department of Internal Affairs. After such land has been specified, the department shall have full jurisdiction and control over it for carrying out the purposes of this act.

Section 3. Any person desiring to enter poultry or hatching eggs in an official research test shall make application to the department, and pay such entry fee as the department shall, from time to time, prescribe by rule and regulation. The Commonwealth hereby disclaims any and all liability for the loss or destruction of, or injury or damage