

No. 102

AN ACT

SB 739

Amending the act of September 20, 1961 (P.L.1541), entitled, as amended, "An act providing for the issuing, administration, enforcement and termination of marketing programs on agricultural commodities; imposing powers and duties on the Secretary of Agriculture; providing for the creation and operation of advisory boards; prescribing the content of programs; and providing for the imposition and collection of fees," providing for representative voting by cooperatives, changing voting requirements and revising the requirements for calling special referendums.

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

Section 1. Section 2, act of September 20, 1961 (P.L.1541), known as the "Pennsylvania Agricultural Commodities Marketing Act of 1968," reenacted and amended July 16, 1968 (Act No. 179), is amended by adding two clauses to read:

Section 2. Definitions.—When used in this act, the following words and phrases shall have the following meanings, unless the context indicates otherwise:

* * *

(7) *"Cooperative association" means any cooperative marketing association of producers which the secretary determines, after application by the association (i) to be qualified under the provisions of the Federal Act of February 18, 1922, known as the "Capper-Volstead Act"; and organized as a cooperative agricultural association under the laws of this State, and any other state, and (ii) to have full authority in the sale of affected agricultural commodity of its members and to be engaged in making collective sales of or marketing such commodity or its products for its members.*

(8) *"Sales agent" means any person, including individuals, partnerships, corporations, cooperative associations, and unincorporated cooperative associations who purchases or handles or receives, or sells or contracts to sell an affected agricultural commodity.*

Section 2. Subsection (a) of section 4 of the act, reenacted and amended July 16, 1968 (Act No. 179), is amended to read:

Section 4. Advisory Board.—(a) Any marketing program, issued pursuant to this act, shall provide for the establishment of an advisory board to advise and assist the secretary in the administration of the marketing programs. The members of the board shall be appointed by the secretary from nominations submitted by producers of such agricultural commodities as the order will affect, and shall hold office until the expiration of the term established in the program, or until such appointment *or term* is terminated by majority action of the board. The

number of members of any such board and their term of office shall be set forth in the marketing program, and shall be of such number as is necessary to properly administer such program, but shall be a minimum of five.

* * *

Section 3. Section 5 of the act is amended by adding a clause to read:

Section 5. Provisions of Marketing Programs.—Subject to the legislative restrictions and limitations set forth in this act, any marketing program issued by the secretary pursuant to this act may contain any or all of the following provisions:

* * *

(5) *Provision may be made in the program to exempt, or allow suitable adjustments or credits, in connection with an agricultural commodity on which a mandatory checkoff for market development is required under the authority of any Federal law.*

Section 4. Sections 6 and 7 of the act reenacted and amended July 16, 1968 (Act No. 179), are amended to read:

Section 6. Effecting Marketing Programs.—(a) No marketing program, or amendment thereto, shall become effective unless and until the secretary determines by a referendum whether or not the affected producers assent to the proposed action.

(b) The secretary shall conduct the referendum among the affected producers and the affected producers shall be deemed to have assented to the proposed program if, of those **[replying, not less than sixty-six and two thirds per centum by number and not less than fifty per centum]** *voting a majority by number and a majority* by volume assent to the proposed program.

(c) *In determining whether a marketing program or amendment thereto have been approved by producers, the secretary shall consider the vote of a cooperative association as the votes of such members, providing the cooperative has first notified its members, in writing, at least thirty days in advance, of its intention to cast a representative vote. Such notice shall inform the producer of his right to cast his vote individually and shall include thereon the following wording in bold face type: **WARNING - IF YOU DO NOT EXERCISE YOUR RIGHT TO VOTE YOUR COOPERATIVE HAS THE RIGHT TO VOTE FOR YOU.** Each producer shall receive a ballot from the secretary. The ballot shall contain the following wording in bold face type: **WARNING - IF YOU DO NOT EXERCISE YOUR RIGHT TO VOTE YOUR COOPERATIVE HAS THE RIGHT TO VOTE FOR YOU.** If the producer votes individually, his vote shall be deducted from his cooperative representative vote.*

(d) Any referendum required under this act shall be conducted in accordance with reasonable rules and regulations to be established and promulgated by the secretary.

Section 7. Terminating Marketing Programs.—The secretary shall suspend or terminate any marketing program or any provisions of any marketing program whenever he finds that such provisions or program does not tend to effectuate this act within the standards and subject to the limitations and restrictions imposed in this act: Provided, That such suspension or termination shall not be effective until the expiration of the current marketing season. If the secretary finds that the termination of any marketing program is requested, in writing, by more than thirty-three and one third per centum of the affected producers who produce for market more than fifty per centum of the volume of agricultural commodities produced within the designated production area for market, the secretary shall terminate or suspend for a specified period such marketing program or provisions thereof: Provided, That such termination shall be effective only if announced on or before such date as may be specified in such program. If ten per centum of the producers **[who participated in the referendum effecting a marketing program]** *in a commodity group of over two thousand affected producers or fifteen per centum of the producers in a commodity group of less than two thousand affected producers* request, in writing, that a referendum be held on the question of terminating the program, the secretary must announce and conduct such a referendum within a reasonable period of time, and in any case, within one year of the request, a marketing program shall be terminated if so voted by a majority of those voting.

Section 5. Section 8 of the act amended March 9, 1970 (P.L.164), is amended to read:

Section 8. Marketing Program Review; *Amendments.*—(a) Every **[three]** *five* years the Secretary of Agriculture shall call a referendum of affected producers within each agricultural commodity group for which a marketing program exists to determine whether or not two-thirds of those voting still desire a marketing program.

(b) *The secretary shall call for a referendum on amendments to a marketing program within a reasonable period of time, upon the request of the advisory board or with written request of ten per centum of the producers in a commodity group of over two thousand affected producers or fifteen per centum of the producers in a commodity group of less than two thousand affected producers. In voting on an amendment to the marketing program, the vote shall be only on the amendment, and shall not terminate the program.*

Section 6. Section 11 of the act reenacted and amended July 16, 1968 (Act No. 179), is amended to read:

Section 11. Rules and Regulations for Enforcement.—The secretary **[may]** *shall*, with the advice of the advisory board, make and promulgate such rules and regulations as may be necessary to effectuate this act and to enforce the provisions of any marketing program, all of which shall have the force and effect of law. The secretary may institute such action at law.

or in equity *and may establish penalties* as may appear necessary to enforce compliance with this act, or any rule or regulation, or marketing program committed to his administration in addition to any other remedy under this act.

APPROVED—The 31st day of August, A. D. 1971.

MILTON J. SHAPP

The foregoing is a true and correct copy of Act of the General Assembly No. 102.

A handwritten signature in black ink, reading "C. McLaughlin Tucker". The signature is written in a cursive, flowing style.

Secretary of the Commonwealth.