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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 297 Session of  
2023

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INTRODUCED BY BROOKS, GEBHARD, SCHWANK, ARGALL, LANGERHOLC,  
PHILLIPS-HILL, STEFANO, PENNYCUICK, BARTOLOTTA, LAUGHLIN,  
BROWN, MASTRIANO, COMITTA, MARTIN, COSTA, ROTHMAN, BAKER,  
HUTCHINSON, ROBINSON, VOGEL, J. WARD AND AUMENT,  
JANUARY 31, 2023

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REFERRED TO EDUCATION, JANUARY 31, 2023

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AN ACT

1 Authorizing the provision or sale of Pennsylvania milk in  
2 Pennsylvania schools.

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

5 Section 1. Short title.

6 This act shall be known and may be cited as the Whole Milk in  
7 Pennsylvania Schools Act.

8 Section 2. Definitions.

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

12 "Pennsylvania milk." Raw milk produced by the milking of  
13 cows physically located within the geographic boundaries of this  
14 Commonwealth, transported to a dairy processing facility located  
15 within the geographic boundaries of this Commonwealth and  
16 processed as fluid milk into containers intended for

1 distribution to consumers.

2 "Pennsylvania school." Any school district, cyber charter  
3 school, charter school, regional charter school, area career and  
4 technical school or intermediate unit located within this  
5 Commonwealth.

6 "Reduced fat Pennsylvania milk." Pennsylvania milk  
7 containing 2% milk fat. The term includes Pennsylvania milk that  
8 has been flavored.

9 "Whole Pennsylvania milk." Pennsylvania milk containing at  
10 least 3% milk fat. The term includes Pennsylvania milk that has  
11 been flavored.

12 Section 3. Milk deemed in stream of intrastate commerce.

13 Pennsylvania milk that is offered for sale to a Pennsylvania  
14 school shall be deemed to be in the stream of intrastate  
15 commerce.

16 Section 4. Provision or sale of Pennsylvania milk in  
17 Pennsylvania schools.

18 Notwithstanding any other provision of law or regulation, the  
19 school board or other governing entity of a Pennsylvania school  
20 may elect to utilize money from State or local sources to obtain  
21 whole Pennsylvania milk or reduced fat Pennsylvania milk to  
22 provide or sell at the Pennsylvania school.

23 Section 5. Duties of Secretary of Education.

24 The Secretary of Education shall notify the superintendent or  
25 chief administrator of each Pennsylvania school of the  
26 provisions of this act.

27 Section 6. Right of civil action.

28 The Office of Attorney General shall, on behalf of a  
29 Pennsylvania school, bring a civil action against the Federal  
30 Government or any other entity to recover money withheld or

1 revoked as a result of an action taken by the school board or  
2 other governing entity of the Pennsylvania school under section  
3 4.

4 Section 7. Reporting.

5 No later than two years after the effective date of this  
6 section, the Secretary of Education, in consultation with the  
7 Secretary of Agriculture and the Pennsylvania Milk Marketing  
8 Board, shall issue a report to the chairperson and minority  
9 chairperson of the Agriculture and Rural Affairs Committee of  
10 the Senate and the chairperson and minority chairperson of the  
11 Agriculture and Rural Affairs Committee of the House of  
12 Representatives. The report shall include all of the following  
13 information:

14 (1) A list of Pennsylvania schools that have elected to  
15 provide or sell Pennsylvania milk under section 4.

16 (2) The approximate increase or decrease in the  
17 consumption of fluid milk at Pennsylvania schools since the  
18 effective date of this section.

19 (3) Actions taken by the Commonwealth to promote whole  
20 milk and reduced fat milk availability in Pennsylvania  
21 schools.

22 (4) Any other information deemed relevant by the  
23 Secretary of Education, the Secretary of Agriculture or the  
24 Pennsylvania Milk Marketing Board for the purposes of this  
25 act.

26 Section 8. Expiration.

27 (a) Notice.--The Secretary of Education shall submit a  
28 notice to the Legislative Reference Bureau for publication in  
29 the Pennsylvania Bulletin upon the occurrence of any of the  
30 following:

1           (1) The amendment or repeal of 42 U.S.C. § 1758(a)(2)(A)  
2           (relating to program requirements), which results in the  
3           availability of whole milk or reduced fat milk, flavored or  
4           unflavored, in elementary and secondary schools in this  
5           Commonwealth.

6           (2) An update to 7 U.S.C. § 5341 (relating to  
7           establishment of dietary guidelines), which permits the  
8           availability of whole milk or reduced fat milk, flavored or  
9           unflavored, in elementary and secondary schools in this  
10          Commonwealth.

11          (b) Expiration.--This act shall expire on the date of  
12          publication of the notice under subsection (a).

13          Section 9. Effective date.

14          This act shall take effect in 30 days.