

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 530 Session of 2013

INTRODUCED BY CLYMER, STERN, BROOKS, KORTZ, PICKETT, MCGEEHAN, SCHLOSSBERG, RAPP, MUNDY, ROZZI, KAUFFMAN, MACKENZIE, HESS, CAUSER, TALLMAN, KNOWLES, D. COSTA, HENNESSEY, WATSON, EVERETT, ROCK, SANTARSIERO, NEILSON, HAHN, SACCONI, CALTAGIRONE, DIGIROLAMO, MALONEY, HICKERNELL, MOUL, FLECK, BARRAR, TOEPEL, READSHAW, MARSHALL, GODSHALL, V. BROWN, TRUITT, MILLARD, SABATINA, COHEN, LAWRENCE, C. HARRIS, M. K. KELLER, MAHONEY, GINGRICH, DeLUCA, MULLERY, MILNE, GILLEN, FARINA, MARSICO, MURT, FABRIZIO, GIBBONS, GOODMAN, PAINTER AND FARRY, FEBRUARY 5, 2013

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, NOVEMBER 20, 2013

AN ACT

1 Amending Title 62 (Procurement) of the Pennsylvania Consolidated
2 Statutes, requiring Commonwealth agencies to procure only
3 flags that are manufactured in the United States AND GIVE <--
4 PREFERENCE TO AMERICAN-MADE PRODUCTS; and imposing a penalty.

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

7 Section 1. Chapter 37 of Title 62 of the Pennsylvania
8 Consolidated Statutes is amended by adding a subchapter to read:

9 SUBCHAPTER F

10 FLAG PROCUREMENT AND <--

11 AMERICAN-MADE PRODUCT PREFERENCE

12 Sec.

13 3761. Short title.

14 3762. Legislative findings and declaration.

1 3763. Definitions.

2 ~~3764. Police powers.~~ <--

3 ~~3765~~ 3764. Contract provisions. <--

4 ~~3766~~ 3765. Payment under contract and recovery of payments. <--

5 ~~3767~~ 3766. Penalty. <--

6 § 3761. Short title.

7 This subchapter shall be known and may be cited as the Flag
8 Procurement AND AMERICAN-MADE PRODUCT PREFERENCE Act. <--

9 § 3762. Legislative findings and declaration.

10 (a) Findings.--It is hereby determined by the General
11 Assembly that:

12 (1) The production of flags ~~provides~~ AND OTHER AMERICAN- <--
13 MADE PRODUCTS PROVIDE jobs and family incomes for residents
14 of this Commonwealth.

15 (2) It has, for many years, been the policy of the
16 Commonwealth to aid and support the development and expansion
17 of industry in this Commonwealth in order to foster the
18 economic well-being of the Commonwealth and its people.

19 (3) The economy and general welfare of the Commonwealth
20 and its people, as well as the economy and general welfare of
21 the United States, are related to the preservation and
22 development of ~~the flag~~ industry in this Commonwealth and in <--
23 the other states of the United States.

24 (b) Declaration.--The General Assembly declares it to be the
25 policy of the Commonwealth and all government agencies should,
26 at all times, aid and promote the development of the flag
27 industry of the United States in order to stimulate and improve
28 the economic well-being of the Commonwealth and its people AND <--
29 GIVE PREFERENCE TO AMERICAN-MADE PRODUCTS WHEN THEY ARE
30 SIMILARLY PRICED AND OF SIMILAR VALUE AND SIMILAR USEFULNESS.

1 § 3763. Definitions.

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

5 "Flag." Any of the following:

6 (1) The flag of the United States, as defined in 4
7 U.S.C. § 1 (relating to flag; stripes and stars on) and the
8 executive orders entered in connection with that section,
9 made of fabric, cloth or paper displayed from a staff or
10 flagpole or in a window. The term does not include a
11 depiction or emblem of the United States flag made of lights,
12 paint, roofing, siding, paving materials, flora or balloons
13 or any other similar building, landscaping or decorative
14 component.

15 (2) The flag of the Commonwealth, as described in
16 section 1 of the act of June 13, 1907 (P.L.560, No.373),
17 entitled "An act designating the official flag of the
18 Commonwealth of Pennsylvania, and describing the same;
19 providing for the carrying of such flag by the regiments of
20 the National Guard of Pennsylvania; authorizing the Secretary
21 of the Commonwealth to provide, and have deposited in the
22 office of Secretary of the Commonwealth, a model of said
23 flag, and making an appropriation therefor."

24 "United States." The United States of America and all
25 territory, continental or insular, subject to the jurisdiction
26 of the United States.

27 ~~§ 3764. Police powers.~~

<--

28 ~~This subchapter is an exercise of the police powers of the~~
29 ~~Commonwealth for the protection of the health, safety and~~
30 ~~general welfare of the people of this Commonwealth.~~

1 § ~~3765~~ 3764. Contract provisions. <--

2 (A) FLAGS.--All Commonwealth agencies and the General <--

3 Assembly, its officers and agencies shall procure only flags

4 that are manufactured in the United States. A flag is

5 manufactured in the United States if the fabric, cloth or paper

6 is woven, dyed, printed or otherwise embedded into the final

7 product in the United States. Contract documents for the

8 procurement of flags shall contain a provision that the flags

9 procured by the Commonwealth agency shall be manufactured in the

10 United States.

11 (B) OTHER PRODUCTS.--ALL COMMONWEALTH AGENCIES AND THE <--

12 GENERAL ASSEMBLY, ITS OFFICERS AND AGENCIES SHALL GIVE

13 PREFERENCE TO AMERICAN-MADE PRODUCTS WHEN THEY ARE SIMILARLY

14 PRICED AND OF SIMILAR VALUE AND SIMILAR USEFULNESS.

15 § ~~3766~~ 3765. Payment under contract and recovery of payments. <--

16 A Commonwealth agency or the General Assembly, its officers

17 and agencies, may not authorize, provide for or make a payment

18 to a person under a contract containing the provisions required

19 by section ~~3765~~ 3764 (relating to contract provisions) unless <--

20 the Commonwealth agency or the General Assembly, its officers

21 and agencies is satisfied that the person has complied with the

22 provisions. If a Commonwealth agency or the General Assembly,

23 its officers and agencies determines that a person who supplied

24 flags to the agency violated section ~~3765~~ 3764, the agency may <--

25 recover from the person a payment made by the Commonwealth

26 agency or the General Assembly, its officers and agencies for

27 the flags.

28 § ~~3767~~ 3766. Penalty. <--

29 A person who willfully violates the provisions of this

30 subchapter may be prohibited by the Commonwealth agency or the

1 General Assembly, its officers and agencies from participation
2 in contracts awarded by the Commonwealth agency or the General
3 Assembly, its officers and agencies for a period of five years
4 from the date of the determination that a violation has
5 occurred. This penalty may be in addition to the withholding or
6 recovery of payments under section ~~3766~~ 3765 (relating to <--
7 payment under contract and recovery of payments).

8 Section 2. This act shall apply to the procurement of flags
9 or contracts for the procurement of flags OR OTHER PRODUCTS <--
10 UNDER 62 PA.C.S. § 3765 entered into on or after the effective
11 date of this act.

12 Section 3. All acts and parts of acts are repealed insofar
13 as they are inconsistent with this act.

14 Section 4. This act shall take effect in 60 days.