
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 157 Session of
2015

INTRODUCED BY TEPLITZ, ARGALL, BREWSTER, FONTANA, COSTA,
FARNESE, GREENLEAF, SMITH, BOSCOLA, SCHWANK, TARTAGLIONE,
YUDICHAK, BROWNE AND RAFFERTY, JANUARY 29, 2015

REFERRED TO COMMUNITY, ECONOMIC AND RECREATIONAL DEVELOPMENT,
JANUARY 29, 2015

AN ACT

1 Providing for Made in PA trademark, for licensee qualification,
2 for duties and authority of Department of Community and
3 Economic Development, for trademark license agreement,
4 application and licensure process and for costs; establishing
5 the Made in PA Trademark Licensing Fund; and providing for
6 civil penalties, for injunctive relief and for rules and
7 regulations.

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

10 Section 1. Short title.

11 This act shall be known and may be cited as the Made in PA
12 Trademark Act.

13 Section 2. Definitions.

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

17 "Department." The Department of Community and Economic
18 Development of the Commonwealth.

19 "Fund." The Made in PA Trademark Licensing Fund established

1 in section 8.

2 "Licensee." A qualified entity that is subject to a current
3 Made in PA trademark license agreement with the department.

4 "Made in PA trademark." One or more trademarks that:

5 (1) consist of the phrase "Made in PA" or "Made in
6 Pennsylvania"; and

7 (2) may include specific graphic designs or artwork as
8 part of the trademark registration.

9 "Pennsylvania-made commodity." Tangible products produced or
10 manufactured in this Commonwealth by a business and that are
11 transported or intended to be transported in commerce.

12 "Person." An individual, partnership, corporation,
13 association or another legal entity.

14 "Qualified entity." A person that produces, manufactures,
15 sells, offers for sale, markets or promotes Pennsylvania-made
16 commodities.

17 Section 3. Made in PA trademark.

18 The department shall take the actions necessary and
19 appropriate to acquire, create, establish, register, maintain,
20 license, promote and protect a Made in PA trademark for use on
21 or in connection with the sale, marketing or promotion of a
22 Pennsylvania-made commodity.

23 Section 4. Licensee qualification.

24 To become a licensee a qualified entity must be:

25 (1) a person that produces or manufactures a
26 Pennsylvania-made commodity in whole or in part at a facility
27 located within this Commonwealth;

28 (2) a person that promotes or markets a Pennsylvania-
29 made commodity from a person that satisfies the provisions of
30 paragraph (1); or

1 (3) a person approved by the department to use and
2 promote the use of the Made in PA trademark to constituencies
3 in furthering the purposes of this act.

4 Section 5. Duties and authority of department.

5 (a) Authority to enter into trademark license agreements.--

6 The department:

7 (1) May enter into a trademark license agreement with a
8 qualified entity.

9 (2) Shall establish the terms and conditions under which
10 a person may be licensed to use the Made in PA trademark.
11 Terms and conditions must require a licensee to produce,
12 process, promote or market a Pennsylvania-made commodity in a
13 manner acceptable to the department that protects the
14 reputation of the Made in PA trademark.

15 (3) May periodically review a licensing agreement to
16 determine if the terms are being met.

17 (b) Cooperative activities.--The department may engage in
18 cooperative activities to implement and advance the purposes of
19 this act.

20 (c) Public information Internet website.--

21 (1) The department shall compile a list of the qualified
22 entities who become licensees under this act. The list shall
23 be made available to the public on the department's Internet
24 website and for other public distribution as the department
25 approves.

26 (2) The list shall be updated every three months and
27 include:

28 (i) the Pennsylvania-made commodity produced,
29 manufactured or promoted by the licensee;

30 (ii) contact information for the licensee that may

1 include an Internet website link; and
2 (iii) one or more locations where the Pennsylvania-
3 made commodity may be purchased.

4 Section 6. Trademark license agreement, application and
5 licensure process.

6 (a) General rules.--

7 (1) A qualified entity may apply to be licensed to use
8 the Made in PA trademark.

9 (2) An application must:

10 (i) be on a form prepared by the department; and

11 (ii) require identification information and other
12 information the department deems necessary to determine
13 if an applicant is a qualified entity.

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

16 (4) The department may determine whether a person is a
17 qualified entity for purposes of this act.

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

21 (6) A trademark license agreement under this act is
22 effective for one year from the date upon which an agreement
23 is executed and may be renewed. An agreement must contain
24 provisions allowing for the termination of the license
25 agreement by the department or a licensee upon 60 days'
26 advance written notice to the other party.

27 (b) Preexisting trademark license agreements.--A trademark
28 license agreement that is in effect prior to the effective date
29 of this section and authorizes the use of a Made in PA trademark
30 remains in effect until it is terminated or until the end of the

1 current contract year, whichever occurs first.

2 Section 7. Costs.

3 Reimbursement of costs are as follows:

4 (1) The department may charge a licensee for costs
5 incurred by the department in connection with the licensee's
6 participation in an activity, trade show, exhibition or other
7 promotional event conducted or facilitated by the department.
8 A charge must reasonably reflect the costs incurred by the
9 department in facilitating the licensee's participation and
10 may include the costs as proportional shares of event
11 registration fees, equipment rental fees, display area rental
12 fees and related costs.

13 (2) The department may charge a licensee for costs of
14 Made in PA promotional materials provided by the department
15 at the request of the licensee.

16 Section 8. Made in PA Trademark Licensing Fund.

17 (a) Establishment.--There is established in the State
18 Treasury a special fund to be known as the Made in PA Trademark
19 Licensing Fund. The fund shall be an interest-bearing restricted
20 revenue account. The following money shall be deposited into the
21 fund:

22 (1) Money as is appropriated, given, granted or donated
23 for the purpose established under this act by the Federal
24 Government, the Commonwealth or another government or private
25 agency or person.

26 (2) Funds derived from the costs established under
27 section 7.

28 (3) Funds derived from civil penalties collected by the
29 department under section 9.

30 (b) Appropriation.--Money in the fund is appropriated on a

1 continuing basis to the department for the purpose of
2 administering this act. The interest and earnings received from
3 investment or deposit of the money in the fund shall be paid
4 into the account for the purpose authorized by this section.
5 Unexpended money and interest or earnings on the money in the
6 fund may not be transferred or revert to the General Fund, but
7 shall remain in the account to be used by the department for the
8 purpose specified under this section.

9 (c) Use.--Money deposited in the fund shall be used to:

10 (1) promote the licensure and use of the Made in PA
11 trademark with respect to Pennsylvania-made commodities;

12 (2) promote the Made in PA trademark as an
13 identification of origin and quality;

14 (3) promote Pennsylvania-made commodities with respect
15 to which the Made in PA trademark is licensed;

16 (4) pay costs associated with monitoring the use of the
17 Made in PA trademark to prohibit the unlawful or unauthorized
18 use of the trademark and enforcing rights of the trademark;
19 and

20 (5) otherwise fund the department's costs in
21 administering and enforcing this act.

22 Section 9. Civil penalties.

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

30 Section 10. Injunctive relief.

1 In addition to the other remedies provided under this act,
2 the Attorney General, at the request of the department, may
3 initiate, in Commonwealth Court or the court of common pleas of
4 the county in which the defendant resides or has his place of
5 business, an action in equity for an injunction to restrain
6 violations of this act or a trademark license agreement. In the
7 proceeding, the court shall, upon motion of the Commonwealth,
8 issue a preliminary injunction if it finds the defendant is
9 engaging in unlawful conduct under this act or is engaging in
10 conduct that is causing immediate or irreparable harm to the
11 public. The Commonwealth may not be required to furnish bond or
12 other security in connection with the proceedings. In addition
13 to an injunction, the court, in equity proceedings, may levy
14 civil penalties as provided under section 9.

15 Section 11. Rules and regulations.

16 The department shall promulgate rules and regulations
17 necessary to promote the efficient, uniform and Statewide
18 administration of this act. For two years from the effective
19 date of this section, the department may promulgate, adopt and
20 use guidelines to implement the provisions of this act. The
21 guidelines must be published in the Pennsylvania Bulletin but
22 not be subject to review under section 205 of the act of July
23 31, 1968 (P.L.769, No.240), referred to as the Commonwealth
24 Documents Law, sections 204(b) and 301(10) of the act of October
25 15, 1980 (P.L.950, No.164), known as the Commonwealth Attorneys
26 Act, or the act of June 25, 1982 (P.L.633, No.181), known as the
27 Regulatory Review Act. The guidelines expire no later than
28 December 31, 2015, and must be replaced by regulations that have
29 been promulgated, adopted and published as provided under law.

30 Section 12. Effective date.

1 This act shall take effect in 60 days.