

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 455 Session of 2021

INTRODUCED BY BARTOLOTTA, J. WARD, STREET, LANGERHOLC, COLLETT, GORDNER, PHILLIPS-HILL, SCAVELLO, YAW, REGAN, SCHWANK, MASTRIANO, ROBINSON AND MUTH, MARCH 19, 2021

AS AMENDED ON SECOND CONSIDERATION, IN SENATE, JUNE 21, 2021

AN ACT

1 ~~Amending Title 51 (Military Affairs) of the Pennsylvania~~ <--
2 ~~Consolidated Statutes, in veteran owned small businesses,~~
3 ~~providing for miscellaneous provisions; imposing a penalty;~~
4 ~~and making an editorial change.~~

5 AMENDING TITLE 51 (MILITARY AFFAIRS) OF THE PENNSYLVANIA <--
6 CONSOLIDATED STATUTES, IN VETERAN-OWNED SMALL BUSINESSES,
7 FURTHER PROVIDING FOR DEFINITIONS; PROVIDING FOR
8 MISCELLANEOUS PROVISIONS; AND IMPOSING A PENALTY.

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

11 ~~Section 1. Chapter 96 heading of Title 51 of the~~ <--
12 ~~Pennsylvania Consolidated Statutes is amended to read:~~

13 CHAPTER 96
14 ~~[VETERAN OWNED SMALL] SERVICEMEMBER OWNED BUSINESSES~~

15 ~~Section 2. Chapter 96 of Title 51 is amended by adding a~~
16 ~~subchapter to read:~~

17 SUBCHAPTER D
18 MISCELLANEOUS PROVISIONS

19 Sec.
20 9621. Definitions.

1 ~~9622. Veteran owned, reservist owned or National Guard owned~~
2 ~~business logotype.~~

3 ~~9623. Nonprofit membership association.~~

4 ~~§ 9621. Definitions.~~

5 ~~As used in this subchapter, the following words and phrases~~
6 ~~shall have the meanings given to them in this section unless the~~
7 ~~context clearly indicates otherwise:~~

8 ~~"Nonprofit membership association." A nonprofit organization~~
9 ~~whose mission is to support veterans, reservists, national guard~~
10 ~~members, their spouses and families~~

11 ~~§ 9622. Veteran owned, reservist owned or National Guard owned~~
12 ~~business logotype.~~

13 ~~(a) Logotype. Except as provided under section 9623(1)~~
14 ~~(relating to nonprofit membership association), the Adjutant~~
15 ~~General shall develop and design an official Commonwealth~~
16 ~~logotype to be used by a veteran owned, reservist owned or~~
17 ~~National Guard owned business, which shall include the~~
18 ~~Commonwealth Coat of Arms and the words "Pennsylvania veteran~~
19 ~~owned business," "Pennsylvania reservist owned business" or~~
20 ~~"Pennsylvania National Guard owned business."~~

21 ~~(b) Application. Except as provided under section 9623(2),~~
22 ~~the Adjutant General shall develop an application, criteria and~~
23 ~~affirmation upon which an eligible business may apply for the~~
24 ~~issuance and use of a logotype under this section.~~

25 ~~(c) Eligibility. Except as provided under section 9623(3),~~
26 ~~the following shall apply:~~

27 ~~(1) The Adjutant General shall verify the military~~
28 ~~service status of a business owner seeking status as a~~
29 ~~veteran owned business, reservist owned business or National~~
30 ~~Guard owned business. Nothing under this paragraph shall~~

~~1 prohibit the Adjutant General from working with another State
2 agency to process verification.~~

~~3 (2) A business that is verified by the Department of
4 General Services under 62 Pa.C.S. Ch. 22 (relating to diverse
5 and disadvantaged businesses) shall be approved and issued a
6 logotype under this section without additional verification.~~

~~7 (d) Notice. Within 10 days of the creation of a logotype
8 under this section and the establishment of the criteria
9 necessary to receive, use and display a logotype and the
10 applications and instructions on how to complete and submit an
11 application, the Adjutant General shall post on a publicly
12 accessible Internet website of the department, a notice that:~~

~~13 (1) A logotype under this section is available to an
14 eligible business.~~

~~15 (2) Includes the criteria necessary to receive, use and
16 display a logotype and allows for access to the applications
17 and instructions on how to complete and submit the
18 applications.~~

~~19 (e) Issuance. Except as provided under section 9623(4), the
20 Adjutant General shall issue a logotype to an applicant deemed
21 eligible under subsection (c).~~

~~22 (f) Duties. If, within 90 days of the effective date of
23 this section, the Adjutant General has not performed a duty
24 under subsection (a), (b), (c) or (e), the Adjutant General
25 shall, within 120 days of the effective date of this section
26 approve a nonprofit membership association to perform all of the
27 duties as provided under section 9623.~~

~~28 (g) Fee.~~

~~29 (1) An initial fee of \$250 is established for the
30 issuance of a logotype.~~

1 ~~(2) A renewal fee of \$100 is established. Renewal fees~~
2 ~~shall be paid every five years.~~

3 ~~(3) Fees collected under this subsection shall be used~~
4 ~~as follows:~~

5 ~~(i) Fifty percent of the fee shall be transferred to~~
6 ~~the Veterans' Trust Fund.~~

7 ~~(ii) Fifty percent of the fee shall be used for~~
8 ~~administrative costs.~~

9 ~~(4) If a nonprofit membership association is chosen~~
10 ~~under subsection (f) or section 9623, the nonprofit~~
11 ~~membership association shall:~~

12 ~~(i) collect the fee under this subsection;~~

13 ~~(ii) transfer 50% of the fee quarterly to the~~
14 ~~Adjutant General for disposition under paragraph (3) (i);~~

15 ~~(iii) retain 50% of the fee for administrative~~
16 ~~costs; and~~

17 ~~(iv) annually submit an audit to the Auditor General~~
18 ~~of the fees collected, transferred and retained under~~
19 ~~this paragraph.~~

20 ~~(5) The Adjutant General shall adjust the fee amounts~~
21 ~~under this subsection every three years to reflect any upward~~
22 ~~changes in the Consumer Price Index for All Urban Consumers~~
23 ~~for the Philadelphia Camden Wilmington, PA NJ DE MD area in~~
24 ~~the preceding 12 months and shall transmit the adjusted fee~~
25 ~~amount to the Legislative Reference Bureau for publication as~~
26 ~~a notice in the Pennsylvania Bulletin. The fee shall be~~
27 ~~adjusted by multiplying the annual fee amount by any~~
28 ~~percentage increase to the Consumer Price Index for All Urban~~
29 ~~Consumers for the Philadelphia Camden Wilmington, PA NJ DE MD~~
30 ~~area, rounded to the nearest \$10. The resultant product shall~~

1 ~~be added to the fee amount, and the sum shall become the new~~
2 ~~annual fee amount under this subsection.~~

3 ~~(h) Penalty.~~

4 ~~(1) An individual commits a misdemeanor of the third~~
5 ~~degree if the individual fraudulently holds the individual~~
6 ~~out to be a veteran, reservist or National Guard member for~~
7 ~~the purpose of obtaining or using a logotype under this~~
8 ~~subchapter.~~

9 ~~(2) Notwithstanding any other provision of law, the full~~
10 ~~amount of each fine collected for a violation of paragraph~~
11 ~~(1) shall be deposited into the Veterans' Trust Fund.~~

12 ~~(i) Report. By March 31st of each year, the Adjutant~~
13 ~~General shall prepare an annual report on the number of veteran~~
14 ~~owned businesses, reservist owned businesses and National Guard~~
15 ~~owned businesses issued the logotype, the annual applications~~
16 ~~and revocations of the logotype and the administration fees~~
17 ~~collected during the preceding year. A copy of the report shall~~
18 ~~be sent to the Veterans Affairs and Emergency Preparedness~~
19 ~~Committee of the Senate and the Veterans Affairs and Emergency~~
20 ~~Preparedness Committee of the House of Representatives.~~

21 ~~§ 9623. Nonprofit membership association.~~

22 ~~Except as provided under section 9622(f) (relating to~~
23 ~~veteran owned, reservist owned or National Guard owned business~~
24 ~~logotype), the Adjutant General may approve a nonprofit~~
25 ~~membership association to do all of the following:~~

26 ~~(1) Develop and design the logotype under section~~
27 ~~9622(a). The Adjutant General shall oversee the development~~
28 ~~and design of any logotype developed and designed under this~~
29 ~~paragraph.~~

30 ~~(2) Develop an application, criteria and affirmation~~

~~under section 9622(b). The Adjutant General shall oversee the development of an application, criteria and affirmation under this paragraph.~~

~~(3) Verify the military service status of business owners seeking status as a veteran owned business, reservist owned business or National Guard owned business. Nothing under this paragraph shall prohibit the nonprofit membership association from working with State agencies to process verification. Businesses that are verified by the Department of General Services under 62 Pa.C.S. Ch. 22 (relating to diverse and disadvantaged businesses) shall be approved and issued a logotype under this section without additional verification.~~

~~(4) Issue a logotype to an applicant deemed eligible under section 9622(e).~~

~~Section 3. This act shall take effect in 60 days.~~

SECTION 1. THE DEFINITION OF "VETERAN" IN SECTION 9601 OF TITLE 51 OF THE PENNSYLVANIA CONSOLIDATED STATUTES IS AMENDED TO READ:

§ 9601. DEFINITIONS.

SUBJECT TO SECTION 9602 (RELATING TO REGULATIONS), THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS CHAPTER SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE CONTEXT CLEARLY INDICATES OTHERWISE:

* * *

"VETERAN." [AN INDIVIDUAL WHO SERVED IN THE UNITED STATES ARMED FORCES, INCLUDING A RESERVE COMPONENT OR THE NATIONAL GUARD, AND WHO WAS DISCHARGED OR RELEASED FROM SERVICE UNDER CONDITIONS OTHER THAN DISHONORABLE.] ANY OF THE FOLLOWING:

(1) AN INDIVIDUAL WHO SERVED ON ACTIVE DUTY IN THE

1 UNITED STATES ARMED FORCES, INCLUDING THE RESERVE AND
2 NATIONAL GUARD, WHO WAS DISCHARGED OR RELEASED FROM SERVICE
3 UNDER HONORABLE CONDITIONS.

4 (2) A RESERVIST OR MEMBER OF THE NATIONAL GUARD WHO
5 COMPLETED AN INITIAL TERM OF ENLISTMENT OR QUALIFYING PERIOD
6 OF SERVICE.

7 (3) A RESERVIST OR MEMBER OF THE NATIONAL GUARD WHO WAS
8 DISABLED IN THE LINE OF DUTY DURING TRAINING.

9 * * *

10 SECTION 2. CHAPTER 96 OF TITLE 51 IS AMENDED BY ADDING A
11 SUBCHAPTER TO READ:

12 SUBCHAPTER D

13 MISCELLANEOUS PROVISIONS

14 SEC.

15 9621. DEFINITIONS.

16 9622. VETERAN-OWNED BUSINESS LOGOTYPE.

17 9623. NONPROFIT MEMBERSHIP ASSOCIATION.

18 § 9621. DEFINITIONS.

19 AS USED IN THIS SUBCHAPTER, THE FOLLOWING WORDS AND PHRASES
20 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE
21 CONTEXT CLEARLY INDICATES OTHERWISE:

22 "NONPROFIT MEMBERSHIP ASSOCIATION." A NONPROFIT ORGANIZATION
23 WHOSE MISSION IS TO SUPPORT VETERANS, RESERVISTS, NATIONAL GUARD
24 MEMBERS, THEIR SPOUSES AND FAMILIES.

25 "VETERAN-OWNED BUSINESS." A BUSINESS OWNED OR CONTROLLED BY
26 A VETERAN.

27 § 9622. VETERAN-OWNED BUSINESS LOGOTYPE.

28 (A) LOGOTYPE.--EXCEPT AS PROVIDED UNDER SECTION 9623
29 (RELATING TO NONPROFIT MEMBERSHIP ASSOCIATION), THE DEPARTMENT
30 SHALL DEVELOP AND DESIGN AN OFFICIAL COMMONWEALTH LOGOTYPE TO BE

1 USED BY A VETERAN-OWNED BUSINESS.

2 (B) APPLICATION.--EXCEPT AS PROVIDED UNDER SECTION 9623, THE
3 DEPARTMENT SHALL DEVELOP AN APPLICATION, CRITERIA AND
4 AFFIRMATION UPON WHICH AN ELIGIBLE BUSINESS MAY APPLY FOR A
5 LICENSE TO USE THE LOGOTYPE UNDER THIS SECTION.

6 (C) ELIGIBILITY.--A VETERAN-OWNED BUSINESS SHALL BE ELIGIBLE
7 TO BE ISSUED A LICENSE TO USE THE LOGOTYPE IF:

8 (1) THE BUSINESS IS REGISTERED WITH THE DEPARTMENT OF
9 STATE; AND

10 (2) AT LEAST 51% OF THE OWNERSHIP INTEREST IN THE
11 BUSINESS IS HELD BY A VETERAN.

12 (D) VERIFICATION OF MILITARY SERVICE STATUS.--EXCEPT AS
13 PROVIDED UNDER SECTION 9623, THE FOLLOWING SHALL APPLY:

14 (1) THE DEPARTMENT SHALL VERIFY THE MILITARY SERVICE
15 STATUS OF EACH BUSINESS OWNER SEEKING STATUS AS A VETERAN-
16 OWNED BUSINESS WITHOUT ADDITIONAL VERIFICATION, BY CONFIRMING
17 THAT THE BUSINESS:

18 (I) POSSESSES A VALID VERIFICATION ISSUED BY THE
19 DEPARTMENT OF GENERAL SERVICES AS A VETERAN BUSINESS
20 ENTERPRISE, INCLUDING A VETERAN-OWNED SMALL BUSINESS
21 ENTERPRISE OR A SERVICE-DISABLED VETERAN-OWNED SMALL
22 BUSINESS ENTERPRISE.

23 (II) POSSESSES A VALID VERIFICATION ISSUED BY THE
24 UNITED STATES DEPARTMENT OF VETERANS AFFAIRS THROUGH
25 VETBIZ OR ITS SUCCESSOR.

26 (2) NOTHING UNDER THIS SUBSECTION SHALL PROHIBIT THE
27 DEPARTMENT FROM WORKING WITH ANOTHER STATE AGENCY OR AN
28 ADDITIONAL THIRD-PARTY ENTITY TO ESTABLISH VETERAN-OWNED
29 BUSINESS VERIFICATION.

30 (E) NOTICE.--WITHIN 10 DAYS OF THE CREATION OF A LOGOTYPE

1 UNDER THIS SECTION AND THE ESTABLISHMENT OF THE CRITERIA
2 NECESSARY TO USE AND DISPLAY THE LOGOTYPE AND THE APPLICATIONS
3 AND INSTRUCTIONS ON HOW TO COMPLETE AND SUBMIT AN APPLICATION,
4 THE DEPARTMENT SHALL POST ON A PUBLICLY ACCESSIBLE INTERNET
5 WEBSITE OF THE DEPARTMENT, A NOTICE THAT:

6 (1) THE LOGOTYPE UNDER THIS SECTION IS AVAILABLE TO AN
7 ELIGIBLE BUSINESS.

8 (2) INCLUDES THE CRITERIA NECESSARY TO RECEIVE A LICENSE
9 TO USE AND DISPLAY THE LOGOTYPE AND ALLOWS FOR ACCESS TO THE
10 APPLICATIONS AND INSTRUCTIONS ON HOW TO COMPLETE AND SUBMIT
11 THE APPLICATIONS.

12 (F) ISSUANCE.--EXCEPT AS PROVIDED UNDER SECTION 9623, THE
13 DEPARTMENT SHALL ISSUE A LICENSE TO USE AND DISPLAY THE LOGOTYPE
14 TO AN APPLICANT DEEMED ELIGIBLE UNDER SUBSECTION (C).

15 (G) FEE.--

16 (1) AN INITIAL FEE OF \$250 IS ESTABLISHED FOR THE
17 ISSUANCE OF A LICENSE TO USE AND DISPLAY THE LOGOTYPE.

18 (2) A RENEWAL FEE OF \$100 IS ESTABLISHED FOR EACH
19 SUBSEQUENT LICENSE RENEWAL TERMS.

20 (3) FEES COLLECTED UNDER THIS SUBSECTION SHALL BE USED
21 AS FOLLOWS:

22 (I) FIFTY PERCENT OF THE FEE SHALL BE TRANSFERRED TO
23 THE VETERANS' TRUST FUND.

24 (II) FIFTY PERCENT OF THE FEE SHALL BE USED FOR
25 ADMINISTRATIVE COSTS.

26 (4) IF A NONPROFIT MEMBERSHIP ASSOCIATION IS CHOSEN
27 UNDER SECTION 9623, THE NONPROFIT MEMBERSHIP ASSOCIATION
28 SHALL:

29 (I) COLLECT THE FEE UNDER THIS SUBSECTION;

30 (II) TRANSFER 50% OF THE FEE QUARTERLY TO THE

1 DEPARTMENT FOR DISPOSITION UNDER PARAGRAPH (3) (I) ;

2 (III) RETAIN 50% OF THE FEE FOR ADMINISTRATIVE
3 COSTS; AND

4 (IV) ANNUALLY SUBMIT AN AUDIT TO THE AUDITOR GENERAL
5 OF THE FEES COLLECTED, TRANSFERRED AND RETAINED UNDER
6 THIS PARAGRAPH.

7 (5) THE DEPARTMENT SHALL ADJUST THE FEE AMOUNTS UNDER
8 THIS SUBSECTION EVERY THREE YEARS TO REFLECT ANY UPWARD
9 CHANGES IN THE CONSUMER PRICE INDEX FOR ALL URBAN CONSUMERS
10 FOR THE PHILADELPHIA-CAMDEN-WILMINGTON, PA-NJ-DE-MD AREA IN
11 THE PRECEDING 12 MONTHS AND SHALL TRANSMIT THE ADJUSTED FEE
12 AMOUNT TO THE LEGISLATIVE REFERENCE BUREAU FOR PUBLICATION AS
13 A NOTICE IN THE PENNSYLVANIA BULLETIN. THE FEE SHALL BE
14 ADJUSTED BY MULTIPLYING THE ANNUAL FEE AMOUNT BY ANY
15 PERCENTAGE INCREASE TO THE CONSUMER PRICE INDEX FOR ALL URBAN
16 CONSUMERS FOR THE PHILADELPHIA-CAMDEN-WILMINGTON, PA-NJ-DE-MD
17 AREA, ROUNDED TO THE NEAREST \$10. THE RESULTANT PRODUCT SHALL
18 BE ADDED TO THE FEE AMOUNT, AND THE SUM SHALL BECOME THE NEW
19 ANNUAL FEE AMOUNT UNDER THIS SUBSECTION.

20 (H) PENALTY.--

21 (1) AN INDIVIDUAL COMMITS A MISDEMEANOR OF THE THIRD
22 DEGREE IF THE INDIVIDUAL FRAUDULENTLY HOLDS THE INDIVIDUAL
23 OUT TO BE A VETERAN FOR THE PURPOSE OF OBTAINING A LICENSE OR
24 USING A LOGOTYPE UNDER THIS SUBCHAPTER.

25 (2) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE FULL
26 AMOUNT OF EACH FINE COLLECTED FOR A VIOLATION OF PARAGRAPH
27 (1) SHALL BE DEPOSITED INTO THE VETERANS' TRUST FUND.

28 (I) REPORT.--BY MARCH 31ST OF EACH YEAR, THE DEPARTMENT
29 SHALL PREPARE AN ANNUAL REPORT ON THE NUMBER OF VETERAN-OWNED
30 BUSINESSES ISSUED A LICENSE TO USE THE LOGOTYPE, THE ANNUAL

1 APPLICATIONS AND RENEWALS OF THE LICENSE TO USE THE LOGOTYPE AND
2 THE ADMINISTRATION FEES COLLECTED DURING THE PRECEDING YEAR. A
3 COPY OF THE REPORT SHALL BE SENT TO THE VETERANS AFFAIRS AND
4 EMERGENCY PREPAREDNESS COMMITTEE OF THE SENATE AND THE VETERANS
5 AFFAIRS AND EMERGENCY PREPAREDNESS COMMITTEE OF THE HOUSE OF
6 REPRESENTATIVES.

7 § 9623. NONPROFIT MEMBERSHIP ASSOCIATION.

8 THE DEPARTMENT MAY, EXCEPT FOR SECTION 9622(D) (RELATING TO
9 VETERAN-OWNED BUSINESS LOGOTYPE), CONTRACT WITH A NONPROFIT
10 MEMBERSHIP ASSOCIATION TO PERFORM THE DUTIES AND
11 RESPONSIBILITIES UNDER SECTION 9622.

12 SECTION 3. THIS ACT SHALL TAKE EFFECT IN 60 DAYS.