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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 1753 Session of  
1993

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INTRODUCED BY BISHOP, BELFANTI, ROBINSON, DeLUCA, MELIO, TIGUE,  
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JUNE 9, 1993

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REFERRED TO COMMITTEE ON LABOR RELATIONS, JUNE 9, 1993

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AN ACT

1 Providing for registration of apparel manufacturers and  
2 contractors; establishing the Apparel Industry Task Force and  
3 providing for its powers, duties and training; and providing  
4 for reports and for penalties.

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

7 Section 1. Short title.

8 This act shall be known and may be cited as the Apparel  
9 Industry Registration Act.

10 Section 2. Definitions.

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

14 "Apparel." Men's, women's, children's or infants' apparel  
15 which is designed or intended to be sold or offered for sale.

16 "Apparel industry." The producing of apparel. The term does  
17 not include cleaning or tailoring after apparel has been sold at  
18 retail.

1 "Contractor." Any person who contracts to perform, in this  
2 Commonwealth, the marking, cutting, sewing, finishing,  
3 assembling, pressing or otherwise producing of any apparel, or a  
4 section or component of apparel, that is designed or intended to  
5 be worn by any individual or sold or offered for sale, except at  
6 retail, for that purpose. The term includes, but is not limited  
7 to, a subcontractor, jobber or wholesaler.

8 "Department." The Department of Labor and Industry of the  
9 Commonwealth.

10 "Manufacturer." Any of the following:

11 (1) A person who produces, in this Commonwealth,  
12 apparel, or a section or component of apparel, that is:

13 (i) designed or intended to be worn by an  
14 individual; and

15 (ii) sold or offered for sale, other than at retail,  
16 for the purpose set forth in subparagraph (i).

17 (2) A person who contracts with a contractor to produce,  
18 in this Commonwealth, apparel, or a section or component of  
19 apparel, that is:

20 (i) designed or intended to be worn by an  
21 individual; and

22 (ii) sold or offered for sale, other than at retail,  
23 for the purpose set forth in subparagraph (i).

24 The term does not include a production employee employed for  
25 wages who does not employ others.

26 "Producing." Includes making, cutting, sewing, finishing,  
27 assembling and pressing.

28 "Production employee." A person who directly performs work  
29 in producing apparel.

30 "Secretary." The Secretary of Labor and Industry of the

1 Commonwealth.

2 "Task force." The Apparel Industry Task Force created in the  
3 Department of Labor and Industry under this act.

4 Section 3. Registration.

5 (a) General rule.--No manufacturer or contractor shall  
6 engage in the apparel industry unless he registers with the  
7 secretary in writing on a form provided by the secretary, which  
8 shall contain the following information:

9 (1) whether it is a sole proprietorship, partnership or  
10 corporation;

11 (2) its name, address and number of production  
12 employees;

13 (3) how long it has been in business;

14 (4) its tax identification number;

15 (5) whether it is a manufacturer or contractor;

16 (6) whether it has contractual relations with a labor  
17 organization and, if so, the name and address of the labor  
18 organization;

19 (7) a statement as to whether the registrant has, within  
20 the last year, been found guilty of any violation of the  
21 labor laws of this Commonwealth and, if so, the nature and  
22 date of all violations and, if the registrant is a  
23 contractor, whether the contractor subcontracts the cutting  
24 or sewing of apparel or sections or components thereof; and

25 (8) if the registrant is a contractor, the registrant  
26 must list all manufacturers or other contractors for which  
27 the registrant will be producing apparel, or sections or  
28 components thereof. This list shall contain the business  
29 addresses and telephone numbers of the manufacturers and  
30 contractors.

1 (b) Divisions, etc.--Divisions, subsidiary corporations or  
2 related companies may, at the option of the manufacturer or  
3 contractor, be named and included under one omnibus  
4 registration.

5 (c) Time of filing.--The registration shall be filed on or  
6 before January 15 of each year.

7 (d) Certificate.--The secretary shall issue a certificate of  
8 registration, which shall be effective for a period of 12  
9 months, upon receipt of all of the following:

10 (1) A completed registration form.

11 (2) Documentation of:

12 (i) A workers' compensation insurance policy in  
13 effect for the registrant's production employees working  
14 in this Commonwealth.

15 (ii) Contributions under section 301 of the act of  
16 December 5, 1936 (2nd Sp.Sess., 1937 P.L.2897, No.1),  
17 known as the Unemployment Compensation Law, for the  
18 registrant's production employees working in this  
19 Commonwealth.

20 (iii) A bond, in an amount determined by the  
21 department, to insure that the registrant will be able to  
22 pay wages and to comply with applicable law on  
23 employment. In setting the amount of the bond, the  
24 department shall consider the size and past experience of  
25 the registrant. The amount of the bond may not exceed  
26 \$2,500 for each production employee.

27 (e) Fees.--The initial registration fee shall be \$500, and  
28 each subsequent annual renewal registration fee shall be \$300.  
29 With respect to new employers, the registration shall be filed  
30 upon the commencement of manufacturing or contracting in the

1 apparel industry and shall be effective until the following  
2 January 15. The secretary may prorate the initial annual  
3 registration fee in such instances.

4 (f) Posting.--Proof of registration shall be by an official  
5 department registration certificate, which shall be posted where  
6 it may be read by employees during the workday.

7 (g) Records.--Each manufacturer and contractor shall keep  
8 accurate records regarding all of its production employees  
9 during the preceding three years and make those records  
10 available to the department unit upon request. The records shall  
11 include:

12 (1) The name and address of each production employee and  
13 the age of each production employee who is a minor.

14 (2) The number of hours of work and the time of day that  
15 work begins and ends for each production employee.

16 (3) The wages, wage rates and piece rates paid during  
17 each payroll period.

18 (4) The number of pieces per hour when piece rate is  
19 paid.

20 (5) Contract worksheets indicating the price per unit  
21 agreed to between the manufacturer and contractor or between  
22 the contractor and subcontractor.

23 (h) Performance of services.--A manufacturer or contractor  
24 shall not perform services or hold himself out as being able to  
25 perform services as a registered manufacturer or contractor  
26 unless he holds a valid registration under this act.

27 Section 4. Establishment of task force.

28 The secretary is authorized to establish the Apparel Industry  
29 Task Force for the purpose of concentrating enforcement of the  
30 labor laws of this Commonwealth affecting production employees

1 in the apparel industry and exercising the duties and powers set  
2 forth in sections 5 and 6. The task force shall be empowered to  
3 investigate and conduct inspections at locations where an  
4 apparel industry contractor is operating.

5 Section 5. Duties of task force.

6 The task force is charged with the following duties:

7 (1) To inspect manufacturers and contractors, with  
8 respect to their respective production employees, for  
9 compliance with the registration requirements of section 3.

10 (2) To inspect manufacturers and contractors, with  
11 respect to their respective production employees, for  
12 compliance with the labor laws of this Commonwealth.

13 (3) To insure, with respect to their respective  
14 production employees, compliance by manufacturers and  
15 contractors with the orders of, and assessments of civil  
16 penalties by, the secretary under this act.

17 Section 6. Powers.

18 Notwithstanding any other State or local law or regulation to  
19 the contrary, the task force shall have the following powers:

20 (1) To inspect books, records and premises of  
21 manufacturers and contractors, with respect to their  
22 respective production employees, to determine compliance with  
23 the labor laws of this Commonwealth, including, but not  
24 limited to, minimum wage, overtime compensation, unemployment  
25 insurance coverage, child labor and industrial homework.

26 (2) To inspect books and records of manufacturers and  
27 contractors, with respect to their respective production  
28 employees, concerning the deduction and remittance to the  
29 proper authorities of all Federal, State and local payroll  
30 taxes and to refer to the appropriate authorities any

1 instance in which there is reasonable cause to believe that  
2 the payment of Federal, State and local payroll taxes is  
3 being evaded.

4 (3) To inspect premises of manufacturers and  
5 contractors, with respect to their respective production  
6 employees, to determine compliance with State or local  
7 building fire and health codes, laws and regulations and to  
8 refer to the appropriate authorities any instance in which  
9 there is reasonable cause to believe that a violation of such  
10 codes, laws or regulations exists.

11 (4) To take action authorized by this act to implement  
12 provisions.

#### 13 Section 7. Training.

14 The task force shall receive training to be provided by the  
15 department in each of the areas of the labor laws of this  
16 Commonwealth, State or local building codes, State or local fire  
17 codes, laws or regulations and State or local health codes, laws  
18 or regulations in which potential violations exist and such  
19 other training as is necessary to carry out the duties and  
20 powers of the task force.

#### 21 Section 8. Assistance.

22 The task force may request from any department, division,  
23 board, bureau, commission or other agency of the Commonwealth,  
24 any political subdivision, public authority or any other  
25 governmental agency or instrumentality such assistance as will  
26 enable it to properly carry out its powers and duties.

#### 27 Section 9. Report.

28 Two years after the effective date of this act, the task  
29 force shall issue a report on its activities and on the apparel  
30 industry in this Commonwealth. The report shall be delivered to

1 the Labor and Industry Committee and the Finance Committee of  
2 the Senate and the Labor Relations Committee and the Finance  
3 Committee of the House of Representatives. The task force shall  
4 report on a regular basis to the department.

5 Section 10. Penalties.

6 (a) Imposition.--

7 (1) The secretary may impose a civil penalty upon a  
8 manufacturer or contractor of up to \$1,500 for the initial  
9 violation of section 3 and up to \$3,000 for a second or  
10 subsequent violation.

11 (2) In assessing the amount of the penalty, the  
12 secretary shall give due consideration to the size of the  
13 manufacturer's or contractor's business, its good faith, the  
14 gravity of the violation, the history of previous violations  
15 of this act and the manufacturer's or contractor's compliance  
16 with the recordkeeping or other provisions of the labor laws  
17 of this Commonwealth

18 (3) The secretary shall comply with the requirements of  
19 2 Pa.C.S. (relating to administrative law and procedure) in  
20 imposing a penalty under this section, and the penalty may be  
21 applied in accordance with the procedures set forth in 2  
22 Pa.C.S.

23 (b) Filing of order.--Unless an appeal is pending or the  
24 time for filing an appeal has not expired, the department may  
25 file an order imposing a civil penalty in the court of common  
26 pleas of any county in which the employer resides or has a place  
27 of business. The order shall be filed as and shall have the full  
28 force and effect of a judgment.

29 (c) Injunction.--If any manufacturer or contractor shall  
30 have failed to comply within 20 days of an order by the

1 secretary to register or renew registration, the secretary may  
2 seek to enjoin such unlawful activity under the Pennsylvania  
3 Rules of Civil Procedure.

4 (d) Misdemeanor.--An intentional failure to comply with the  
5 registration requirements of section 3 is a misdemeanor of the  
6 second class.

7 (e) Revocation of registration.--The secretary may, after  
8 providing opportunity for a hearing, revoke the registration of  
9 a manufacturer or contractor for a period of 30 days to one year  
10 for a second violation of the same provision of this act within  
11 any two-year period. In assessing whether to revoke the  
12 registration, the secretary shall give due consideration to the  
13 size of the manufacturer's or contractor's business, its good  
14 faith, the gravity of the violation, the history of previous  
15 violations and the manufacturer's or contractor's compliance  
16 with the recordkeeping or other provisions of the labor laws of  
17 this Commonwealth.

18 (f) Additional penalty.--Any manufacturer or contractor who  
19 contracts, for the second time within any three-year period, for  
20 the performance of any apparel industry service with any other  
21 manufacturer or contractor who the manufacturer or contractor  
22 knows has failed to comply with the registration requirements of  
23 section 3 shall, if the other manufacturer or contractor has  
24 failed to pay any civil penalty assessed under this section, be  
25 liable to pay a civil penalty equal to the civil penalty that  
26 the other manufacturer or contractor has been assessed. This  
27 section shall not affect the right of a manufacturer to possess  
28 or repossess any apparel, or sections or components of apparel,  
29 that are located at a contractor with whom it has contracted.

30 Section 11. Protection of production employees.

1       (a) General rule.--No manufacturer or contractor may  
2 discharge or cause to be discharged, discipline or discriminate  
3 against a production employee because the production employee  
4 has filed a complaint related to this act, has assisted the task  
5 force with respect to an inspection under section 6, has  
6 testified or is about to testify in a proceeding under this act  
7 or has requested information or assistance from the task force.

8       (b) Burden of proof.--If the department or the production  
9 employee establishes that, within the six months prior to the  
10 alleged violation of subsection (a), the production employee  
11 took one of the actions specified in subsection (a), the  
12 employer shall have the burden to show just cause for the action  
13 by clear and convincing evidence.

14       (c) Waivers invalid.--A waiver by any production employee or  
15 applicant for employment of the provisions of this section shall  
16 be void as a violation of public policy.

17 Section 12. Effective date.

18       This act shall take effect in 60 days.