

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 419

Session of
2007

INTRODUCED BY CLYMER, ARGALL, BAKER, BARRAR, BASTIAN, BELFANTI, BUXTON, CALTAGIRONE, CAPPELLI, CASORIO, COHEN, COSTA, COX, CREIGHTON, DALEY, DeLUCA, DePASQUALE, DeWEESE, EVERETT, FABRIZIO, FAIRCHILD, FLECK, FREEMAN, GEIST, GEORGE, GINGRICH, GOODMAN, GRUCELA, HALUSKA, HARHAI, HENNESSEY, HERSHEY, HICKERNELL, JAMES, KAUFFMAN, M. KELLER, KILLION, KULA, LEVDANSKY, MANN, McILHATTAN, MELIO, MUNDY, NAILOR, D. O'BRIEN, O'NEILL, PALLONE, PAYNE, PETRARCA, PETRONE, PHILLIPS, PICKETT, PYLE, READSHAW, REED, REICHLEY, ROHRER, SANTONI, SAYLOR, SCAVELLO, SEIP, SHIMKUS, SOLOBAY, SONNEY, STABACK, STERN, R. STEVENSON, TRUE, WATSON, WOJNAROSKI, YOUNGBLOOD, PEIFER, BOYD, SIPTROTH, HORNAMAN, WANSACZ, LONGIETTI AND BROOKS, FEBRUARY 13, 2007

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES,
APRIL 17, 2007

AN ACT

1 To promote the general welfare and stimulate the economy of the
2 Commonwealth by requiring that all government agencies
3 purchase only flags manufactured in the United States; and
4 imposing a penalty.

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 Flag
9 Procurement Act.

10 Section 2. Legislative findings and declaration.

11 (1) It is hereby determined by the General Assembly
12 that:

13 (i) The production of flags provides jobs and family

1 incomes for residents of this Commonwealth.

2 (ii) It has, for many years, been the policy of the
3 Commonwealth to aid and support the development and
4 expansion of industry in this Commonwealth in order to
5 foster the economic well-being of the Commonwealth and
6 its people.

7 (iii) The economy and general welfare of the
8 Commonwealth and its people, as well as the economy and
9 general welfare of the of the United States, are related
10 to the preservation and development of the flag industry
11 in this Commonwealth and in the other states of the
12 United States.

13 (2) The General Assembly declares it to be the policy of
14 the Commonwealth and all government agencies should, at all
15 times, aid and promote the development of the flag industry
16 of the United States in order to stimulate and improve the
17 economic well-being of the Commonwealth and its people.

18 Section 3. Definitions.

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

22 "Executive agency." The Governor and the departments,
23 boards, commissions, authorities and other officers and agencies
24 of the Commonwealth. The term does not include any court or
25 other officer or agency of the unified judicial system, the
26 General Assembly and its officers and agencies or any
27 independent agency or State-affiliated entity.

28 "Flag." Any of the following:

29 (1) The flag of the United States, as defined in 4
30 U.S.C. § 1 (relating to flag; stripes and stars on) and the

1 Executive orders entered in connection with that section,
2 made of fabric, cloth or paper displayed from a staff or
3 flagpole or in a window. The term does not include a
4 depiction or emblem of the United States flag made of lights,
5 paint, roofing, siding, paving materials, flora or balloons
6 or any other similar building, landscaping or decorative
7 component.

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

17 "Government agency." The General Assembly and its officers
18 and agencies, an executive agency, an independent agency or a
19 State-affiliated entity.

20 "Independent agency." Boards, commissions and other agencies
21 and officers of the Commonwealth that are not subject to the
22 policy supervision and control of the Governor. The term does
23 not include any State-affiliated entity, any court or other
24 officer or agency of the unified judicial system, the General
25 Assembly and its officers and agencies, any State-related
26 institution, political subdivision or any local, regional or
27 metropolitan transportation authority.

28 "Procure." To acquire by purchase, lease or rent. The term
29 does not include any rentals or leases where the term of the
30 rental or lease is less than one month.

1 "State-affiliated entity." A Commonwealth authority or a
2 Commonwealth entity. The term includes the Pennsylvania Turnpike
3 Commission, the Pennsylvania Housing Finance Agency, the
4 Pennsylvania Municipal Retirement Board, the Pennsylvania
5 Infrastructure Investment Authority, the State Public School
6 Building Authority, the Pennsylvania Higher Educational
7 Facilities Authority and the State System of Higher Education.
8 The term does not include any court or other officer or agency
9 of the unified judicial system, the General Assembly and its
10 officers and agencies, any State-related institution, political
11 subdivision or any local, regional or metropolitan
12 transportation authority.

13 "State-related institution." The Pennsylvania State
14 University, the University of Pittsburgh, Lincoln University or
15 Temple University.

16 "United States." The United States of America and all
17 territory, continental or insular, subject to the jurisdiction
18 of the United States.

19 Section 4. Police powers.

20 This act shall be deemed to be an exercise of the police
21 powers of the Commonwealth for the protection of the health,
22 safety and general welfare of the people of this Commonwealth.

23 Section 5. Contract provisions.

24 (a) Flags to be manufactured in United States.--All
25 government agencies shall procure only flags that are
26 manufactured in the United States. A flag is manufactured in the
27 United States if a substantial majority of the principal
28 components are assembled into the final product in an assembly
29 plant in the United States. Contract documents for the
30 procurement of flags shall contain a provision that the flags

1 procured by the government agency shall be manufactured in the
2 United States.

3 (b) Exception.--This section shall not apply where the head
4 of the government agency states in writing that it is
5 inconsistent with the public interest or that the cost is
6 unreasonable.

7 Section 6. Payment under contract and action to recover
8 unauthorized payments.

9 A government agency shall not authorize, provide for or make
10 a payment to a person under a contract containing the provisions
11 required by section 5 unless the government agency is satisfied
12 that the person has complied with the provisions. ~~A payment made~~ <—
13 ~~to a person by a government agency that should not have been~~
14 ~~made shall be recoverable directly from the supplier of the flag~~
15 ~~who did not comply with section 5 by the government agency by~~
16 ~~appropriate legal action.~~ IF A GOVERNMENT AGENCY DETERMINES THAT <—
17 A PERSON THAT SUPPLIED FLAGS TO THE AGENCY VIOLATED SECTION 5,
18 THE AGENCY MAY RECOVER FROM THE PERSON ANY PAYMENT MADE BY THE
19 AGENCY FOR THE FLAGS.

20 Section 7. Penalty.

21 In addition to the withholding of payments, any person who
22 willfully violates any of the provisions of this act may be
23 prohibited by any government agency from participation in
24 contracts awarded by the government agency for a period of five
25 years from the date of the determination that a violation has
26 occurred.

27 Section 8. Applicability.

28 This act shall apply to the purchase of flags or contracts
29 for the procurement of flags entered into on or after the
30 effective date of this section.

1 Section 40. Repeals.

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

4 Section 41. Effective date.

5 This act shall take effect in 60 days.