

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1166 Session of 2009

INTRODUCED BY CLYMER, ARGALL, BAKER, BARRAR, BEAR, BELFANTI, BOYD, BRENNAN, BUXTON, CALTAGIRONE, CASORIO, COHEN, D. COSTA, CREIGHTON, CUTLER, DALEY, DeLUCA, DePASQUALE, EVERETT, FLECK, GEIST, GEORGE, GIBBONS, GINGRICH, GOODMAN, GROVE, GRUCELA, HARHAI, HARKINS, HARPER, HARRIS, HENNESSEY, HESS, HICKERNELL, HORNAMAN, KAUFFMAN, M. KELLER, KORTZ, MAJOR, MANN, MARSHALL, MILLARD, MILLER, MOUL, MUNDY, MURT, MUSTIO, O'NEILL, PALLONE, PASHINSKI, PAYNE, PETRARCA, PHILLIPS, PICKETT, PYLE, QUINN, RAPP, READSHAW, REED, REICHLEY, ROAE, ROCK, ROEBUCK, ROHRER, SANTONI, SAYLOR, SCAVELLO, SIPTROTH, K. SMITH, STABACK, STERN, STEVENSON, J. TAYLOR, TRUE, WALKO, WANSACZ, WATSON, WHEATLEY AND YOUNGBLOOD, APRIL 1, 2009

REFERRED TO COMMITTEE ON STATE GOVERNMENT, APRIL 1, 2009

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
14 incomes for residents of this Commonwealth.

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

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

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

17 Section 3. Definitions.

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

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

27 "Flag." Any of the following:

28 (1) The flag of the United States, as defined in 4
29 U.S.C. § 1 (relating to flag; stripes and stars on) and the
30 executive orders entered in connection with that section,

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

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

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

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

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

30 "State-affiliated entity." A Commonwealth authority or a

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

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

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

18 Section 4. Police powers.

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

22 Section 5. Contract provisions.

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

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

5 Section 6. Payment under contract and recovery of payments.

6 A government agency shall not authorize, provide for or make
7 a payment to a person under a contract containing the provisions
8 required by section 5 unless the government agency is satisfied
9 that the person has complied with the provisions. If a
10 government agency determines that a person that supplied flags
11 to the agency violated section 5, the agency may recover from
12 the person any payment made by the government agency for the
13 flags.

14 Section 7. Penalty.

15 A person who willfully violates the provisions of this act
16 may be prohibited by the government agency from participation in
17 contracts awarded by the government agency for a period of five
18 years from the date of the determination that a violation has
19 occurred. This penalty may be in addition to the withholding or
20 recovery of payments under section 6.

21 Section 8. Applicability.

22 This act shall apply to the procurement of flags or contracts
23 for the procurement of flags entered into on or after the
24 effective date of this act.

25 Section 40. Repeals.

26 All acts and parts of acts are repealed insofar as they are
27 inconsistent with this act.

28 Section 41. Effective date.

29 This act shall take effect in 60 days.