

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1249 Session of  
2014

INTRODUCED BY STACK, FERLO, SMITH, TEPLITZ, RAFFERTY, ARGALL,  
ALLOWAY, WHITE, BOSCOLA, FONTANA, HUTCHINSON, COSTA,  
BREWSTER, KASUNIC, BRUBAKER, SOLOBAY, FARNESE, VANCE, BROWNE  
AND TARTAGLIONE, FEBRUARY 4, 2014

REFERRED TO STATE GOVERNMENT, FEBRUARY 4, 2014

AN ACT

1 Amending Title 62 (Procurement) of the Pennsylvania Consolidated  
2 Statutes, requiring Commonwealth agencies to procure only  
3 flags that are manufactured in the United States and give  
4 preference to American-made products; and imposing a penalty.

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

7 Section 1. Chapter 37 of Title 62 of the Pennsylvania  
8 Consolidated Statutes is amended by adding a subchapter to read:

9 SUBCHAPTER F

10 FLAG PROCUREMENT AND

11 AMERICAN-MADE PRODUCT PREFERENCE

12 Sec.

13 3761. Short title of subchapter.

14 3762. Legislative findings and declaration.

15 3763. Definitions.

16 3764. Contract provisions.

17 3765. Payment under contract and recovery of payments.

1 3766. Penalty.

2 § 3761. Short title of subchapter.

3 This subchapter shall be known and may be cited as the Flag  
4 Procurement and American-made Product Preference Act.

5 § 3762. Legislative findings and declaration.

6 (a) Findings.--It is hereby determined by the General  
7 Assembly that:

8 (1) The production of flags and other American-made  
9 products provide jobs and family incomes for residents of  
10 this Commonwealth.

11 (2) It has, for many years, been the policy of the  
12 Commonwealth to aid and support the development and expansion  
13 of industry in this Commonwealth in order to foster the  
14 economic well-being of the Commonwealth and its people.

15 (3) The economy and general welfare of the Commonwealth  
16 and its people, as well as the economy and general welfare of  
17 the United States, are related to the preservation and  
18 development of industry in this Commonwealth and in the other  
19 states of the United States.

20 (b) Declaration.--The General Assembly declares it to be the  
21 policy of the Commonwealth and all government agencies should,  
22 at all times, aid and promote the development of the flag  
23 industry of the United States in order to stimulate and improve  
24 the economic well-being of the Commonwealth and its people and  
25 give preference to American-made products when they are  
26 similarly priced and of similar value and similar usefulness.

27 § 3763. Definitions.

28 The following words and phrases when used in this subchapter  
29 shall have the meanings given to them in this section unless the  
30 context clearly indicates otherwise:

1 "Flag." Any of the following:

2 (1) The flag of the United States, as defined in 4  
3 U.S.C. § 1 (relating to flag; stripes and stars on) and the  
4 executive orders entered in connection with that section,  
5 made of fabric, cloth or paper displayed from a staff or  
6 flagpole or in a window. The term does not include a  
7 depiction or emblem of the United States flag made of lights,  
8 paint, roofing, siding, paving materials, flora or balloons  
9 or any other similar building, landscaping or decorative  
10 component.

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

20 "United States." The United States of America and all  
21 territory, continental or insular, subject to the jurisdiction  
22 of the United States.

23 § 3764. Contract provisions.

24 (a) Flags.--All Commonwealth agencies and the General  
25 Assembly, its officers and agencies shall procure only flags  
26 that are manufactured in the United States. A flag is  
27 manufactured in the United States if the fabric, cloth or paper  
28 is woven, dyed, printed or otherwise embedded into the final  
29 product in the United States. Contract documents for the  
30 procurement of flags shall contain a provision that the flags

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

3 (b) Other products.--All Commonwealth agencies and the  
4 General Assembly, its officers and agencies shall give  
5 preference to American-made products when they are similarly  
6 priced and of similar value and similar usefulness.

7 § 3765. Payment under contract and recovery of payments.

8 A Commonwealth agency or the General Assembly, its officers  
9 and agencies, may not authorize, provide for or make a payment  
10 to a person under a contract containing the provisions required  
11 by section 3764 (relating to contract provisions) unless the  
12 Commonwealth agency or the General Assembly, its officers and  
13 agencies is satisfied that the person has complied with the  
14 provisions. If a Commonwealth agency or the General Assembly,  
15 its officers and agencies determines that a person who supplied  
16 flags to the agency violated section 3764, the agency may  
17 recover from the person a payment made by the Commonwealth  
18 agency or the General Assembly, its officers and agencies for  
19 the flags.

20 § 3766. Penalty.

21 A person who willfully violates the provisions of this  
22 subchapter may be prohibited by the Commonwealth agency or the  
23 General Assembly, its officers and agencies from participation  
24 in contracts awarded by the Commonwealth agency or the General  
25 Assembly, its officers and agencies for a period of five years  
26 from the date of the determination that a violation has  
27 occurred. This penalty may be in addition to the withholding or  
28 recovery of payments under section 3765 (relating to payment  
29 under contract and recovery of payments).

30 Section 2. This act shall apply to the procurement of flags

1 or contracts for the procurement of flags or other products  
2 under 62 Pa.C.S. § 3765 entered into on or after the effective  
3 date of this section.

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

6 Section 4. This act shall take effect in 60 days.