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THE GENERAL ASSEMBLY OF PENNSYLVANIA

---

HOUSE BILL

No. 651 Session of  
2011

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INTRODUCED BY CLYMER, BAKER, BOYD, BROOKS, CALTAGIRONE,  
D. COSTA, CREIGHTON, DAVIS, DENLINGER, FLECK, GEIST, GEORGE,  
GIBBONS, GILLEN, GOODMAN, HAHN, HENNESSEY, HESS, HICKERNELL,  
HORNAMAN, HUTCHINSON, KAUFFMAN, KAVULICH, M.K. KELLER,  
LAWRENCE, MAJOR, MANN, MARSHALL, MILNE, MURT, PAYNE, PEIFER,  
PICKETT, PYLE, QUINN, RAPP, READSHAW, ROCK, SCAVELLO,  
K. SMITH, STABACK, STERN, STEVENSON, TRUITT, VULAKOVICH AND  
WATSON, FEBRUARY 14, 2011

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REFERRED TO COMMITTEE ON STATE GOVERNMENT, FEBRUARY 14, 2011

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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.

15 (ii) It has, for many years, been the policy of the  
16 Commonwealth to aid and support the development and

1 expansion of industry in this Commonwealth in order to  
2 foster the economic well-being of the Commonwealth and  
3 its people.

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

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

15 Section 3. Definitions.

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

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

25 "Flag." Any of the following:

26 (1) The flag of the United States, as defined in 4  
27 U.S.C. § 1 (relating to flag; stripes and stars on) and the  
28 executive orders entered in connection with that section,  
29 made of fabric, cloth or paper displayed from a staff or  
30 flagpole or in a window. The term does not include a

1 depiction or emblem of the United States flag made of lights,  
2 paint, roofing, siding, paving materials, flora or balloons  
3 or any other similar building, landscaping or decorative  
4 component.

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

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

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

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

28 "State-affiliated entity." A Commonwealth authority or a  
29 Commonwealth entity. The term includes the Pennsylvania Turnpike  
30 Commission, the Pennsylvania Housing Finance Agency, the

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

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

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

16 Section 4. Police powers.

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

20 Section 5. Contract provisions.

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

29 (b) Exception.--This section shall not apply where the head  
30 of the government agency states in writing that it is

1 inconsistent with the public interest or that the cost is  
2 unreasonable.

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

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

12 Section 7. Penalty.

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

19 Section 8. Applicability.

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

23 Section 40. Repeals.

24 All acts and parts of acts are repealed insofar as they are  
25 inconsistent with this act.

26 Section 41. Effective date.

27 This act shall take effect in 60 days.