

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 180 Session of 2015

INTRODUCED BY GOODMAN, EVANKOVICH, SCHLOSSBERG, BARBIN, BARRAR, BISHOP, BIZZARRO, BOBACK, BOYLE, R. BROWN, BROWNLEE, CALTAGIRONE, CARROLL, COHEN, CONKLIN, D. COSTA, P. COSTA, M. DALEY, P. DALEY, DAVIS, DEAN, DEASY, DeLISSIO, DeLUCA, DERMODY, DONATUCCI, DUNBAR, EMRICK, EVERETT, FABRIZIO, FARINA, FRANKEL, FREEMAN, GABLER, GAINEY, GALLOWAY, GIBBONS, HAHN, HANNA, HARHAI, HARKINS, JAMES, W. KELLER, KIM, KNOWLES, KORTZ, KOTIK, LAWRENCE, LONGIETTI, MACKENZIE, MARKOSEK, MARSHALL, MARSICO, MASSER, MATZIE, McCARTER, McNEILL, D. MILLER, MULLERY, MURT, NEUMAN, O'BRIEN, OBERLANDER, ORTITAY, C. PARKER, PASHINSKI, PEIFER, PYLE, RAVENSTAHL, READSHAW, SABATINA, SACCONI, SAINATO, SAMUELSON, SAYLOR, SCHREIBER, SIMMONS, SIMS, SNYDER, STEPHENS, STURLA, TALLMAN, THOMAS, TOBASH, WATERS, WATSON, YOUNGBLOOD, ZIMMERMAN AND MOUL, FEBRUARY 5, 2015

REFERRED TO COMMITTEE ON COMMERCE, FEBRUARY 5, 2015

AN ACT

1 Providing for Made in PA® trademark, for licensee qualification,
 2 for duties and authority of department, for trademark license
 3 agreement, application and licensure process and for costs;
 4 establishing the Made in PA® Trademark Licensing Fund; and
 5 providing for civil penalties, for injunctive relief and for
 6 rules and regulations.

7 The General Assembly of the Commonwealth of Pennsylvania
 8 hereby enacts as follows:

9 Section 1. Short title.

10 This act shall be known and may be cited as the Made in PA®
 11 Act.

12 Section 2. Definitions.

13 The following words and phrases when used in this act shall

1 have the meanings given to them in this section unless the
2 context clearly indicates otherwise:

3 "Department." The Department of Community and Economic
4 Development of the Commonwealth.

5 "Fund." The Made in PA® Trademark Licensing Fund established
6 in section 8.

7 "Licensee." A qualified entity that is subject to a current
8 Made in PA® trademark license agreement with the department.

9 "Made in PA® trademark." One or more trademarks that:

10 (1) consist of the phrase "Made in PA" or "Made in
11 Pennsylvania"; and

12 (2) may include specific graphic designs or artwork as
13 part of the trademark registration.

14 "Pennsylvania-made commodity." Tangible products produced or
15 manufactured in this Commonwealth by a business and that are
16 transported or intended to be transported in commerce.

17 "Qualified entity." A person that produces, manufactures,
18 sells, offers for sale, markets or promotes Pennsylvania-made
19 commodities.

20 Section 3. Made in PA® trademark.

21 The department shall take the actions necessary and
22 appropriate to create, register, maintain, license, promote and
23 protect a Made in PA® trademark for use on or in connection with
24 the sale, marketing or promotion of a Pennsylvania-made
25 commodity.

26 Section 4. Licensee qualification.

27 To become a licensee a qualified entity must be:

28 (1) a person that produces or manufactures a
29 Pennsylvania-made commodity in whole or in part at a facility
30 located within this Commonwealth;

1 (2) a person that promotes or markets a Pennsylvania-
2 made commodity from a person that satisfies the provisions of
3 paragraph (1); or

4 (3) a person approved by the department to use and
5 promote the use of the Made in PA® trademark to
6 constituencies in furthering the purposes of this act.

7 Section 5. Duties and authority of department.

8 (a) Authority to enter into trademark license agreements.--

9 The department:

10 (1) May enter into a trademark license agreement with a
11 qualified entity.

12 (2) Shall establish the terms and conditions under which
13 a person may be licensed to use the Made in PA® trademark.
14 Terms and conditions must require a licensee to produce,
15 process, promote or market a Pennsylvania-made commodity in a
16 manner acceptable to the department that protects the
17 reputation of the Made in PA® trademark.

18 (3) May periodically review a licensing agreement to
19 determine if the terms are being met.

20 (b) Cooperative activities.--The department may engage in
21 cooperative activities to implement and advance the purposes of
22 this act.

23 (c) Public information Internet website.--

24 (1) The department shall compile a list of the qualified
25 entities who become licensees under this act. The list shall
26 be made available to the public on the department's Internet
27 website and for other public distribution as the department
28 approves.

29 (2) The list shall be updated every three months and
30 include:

- 1 (i) the Pennsylvania-made commodity produced,
- 2 manufactured or promoted by the licensee;
- 3 (ii) contact information for the licensee that may
- 4 include an Internet website link; and
- 5 (iii) one or more locations where the Pennsylvania-
- 6 made commodity may be purchased.

7 Section 6. Trademark license agreement, application and
8 licensure process.

9 (a) General rules.--

10 (1) A qualified entity may apply to be licensed to use
11 the Made in PA® trademark.

12 (2) An application must:

13 (i) be on a form prepared by the department; and

14 (ii) require identification information and other
15 information the department deems necessary to determine
16 if an applicant is a qualified entity.

17 (3) The application form shall be provided by the
18 department upon request.

19 (4) The department may determine whether a person is a
20 qualified entity for purposes of this act.

21 (5) If the department determines that an applicant is a
22 qualified entity, it shall offer that qualified entity a
23 trademark license agreement.

24 (6) A trademark license agreement under this act is
25 effective for one year from the date upon which an agreement
26 is executed and may be renewed. An agreement must contain
27 provisions allowing for the termination of the license
28 agreement by the department or a licensee upon 60 days'
29 advance written notice to the other party.

30 (b) Preexisting trademark license agreements.--A trademark

1 license agreement that is in effect prior to the effective date
2 of this section and authorizes the use of a Made in PA®
3 trademark remains in effect until it is terminated or until the
4 end of the current contract year, whichever occurs first.

5 Section 7. Costs.

6 (a) Charge for costs.--The department may charge a licensee
7 for costs incurred by the department in connection with the
8 licensee's participation in an activity, trade show, exhibition
9 or other promotional event conducted or facilitated by the
10 department. A charge must reasonably reflect the costs incurred
11 by the department in facilitating the licensee's participation
12 and may include the costs as proportional shares of event
13 registration fees, equipment rental fees, display area rental
14 fees and related costs.

15 (b) Cost of promotional materials.--The department may
16 charge a licensee for costs of Made in PA® promotional materials
17 provided by the department at the request of the licensee.

18 Section 8. Made in PA® Trademark Licensing Fund.

19 (a) Establishment.--There is established in the State
20 Treasury a special fund to be known as the Made in PA® Trademark
21 Licensing Fund. The fund shall be an interest-bearing restricted
22 revenue account. The following money shall be deposited into the
23 fund:

24 (1) Money appropriated or given for the purpose
25 established under this act by the Federal Government, the
26 Commonwealth or another government or private agency or
27 person.

28 (2) Funds derived from the costs established under
29 section 7.

30 (3) Funds derived from civil penalties collected by the

1 department under section 9.

2 (b) Appropriation.--Money in the fund is appropriated on a
3 continuing basis to the department for the purpose of
4 administering this act. The interest and earnings received from
5 investment or deposit of the money in the fund shall be paid
6 into the account for the purpose authorized by this section.
7 Unexpended money and interest or earnings on the money in the
8 fund may not be transferred or revert to the General Fund, but
9 shall remain in the account to be used by the department for the
10 purpose specified under this section.

11 (c) Use.--Money deposited in the fund shall be used to:

12 (1) promote the licensure and use of the Made in PA®
13 trademark with respect to Pennsylvania-made commodities;

14 (2) promote the Made in PA® trademark as an
15 identification of origin and quality;

16 (3) promote Pennsylvania-made commodities with respect
17 to which the Made in PA® trademark is licensed;

18 (4) pay costs associated with monitoring the use of the
19 Made in PA® trademark to prohibit the unlawful or
20 unauthorized use of the trademark and enforcing rights of the
21 trademark; and

22 (5) otherwise fund the department's costs in
23 administering and enforcing this act.

24 Section 9. Civil penalties.

25 In addition to any other remedy available at law or in equity
26 for a violation of a provision of this act or a trademark
27 license agreement established under this act, the department may
28 assess a civil penalty upon the person responsible for the
29 violation. The civil penalty assessed may not exceed \$10,000 and
30 is payable to the Commonwealth and collectible in a manner

1 provided under law for the collection of debt.

2 Section 10. Injunctive relief.

3 In addition to the other remedies provided under this act,
4 the Attorney General, at the request of the department, may
5 initiate, in Commonwealth Court or the court of common pleas of
6 the county in which the defendant resides or has his place of
7 business, an action in equity for an injunction to restrain
8 violations of this act or a trademark license agreement. In the
9 proceeding, the court shall, upon motion of the Commonwealth,
10 issue a preliminary injunction if it finds the defendant is
11 engaging in unlawful conduct under this act or is engaging in
12 conduct that is causing immediate or irreparable harm to the
13 public. The Commonwealth may not be required to furnish bond or
14 other security in connection with the proceedings. In addition
15 to an injunction, the court, in equity proceedings, may levy
16 civil penalties as provided under section 9.

17 Section 11. Rules and regulations.

18 The department shall promulgate rules and regulations
19 necessary to promote the efficient, uniform and Statewide
20 administration of this act. For two years from the effective
21 date of this section, the department may promulgate, adopt and
22 use guidelines to implement the provisions of this act. The
23 guidelines must be published in the Pennsylvania Bulletin but
24 shall not be subject to review under section 205 of the act of
25 July 31, 1968 (P.L.769, No.240), referred to as the Commonwealth
26 Documents Law, sections 204(b) and 301(10) of the act of October
27 15, 1980 (P.L.950, No.164), known as the Commonwealth Attorneys
28 Act, or the act of June 25, 1982 (P.L.633, No.181), known as the
29 Regulatory Review Act. The guidelines shall expire no later than
30 December 31, 2017, and must be replaced by regulations that have

- 1 been promulgated, adopted and published as provided under law.
- 2 Section 12. Effective date.
- 3 This act shall take effect in 60 days.