

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1600 Session of  
2015

INTRODUCED BY MACKENZIE, ACOSTA, BARRAR, BIZZARRO, CORBIN,  
D. COSTA, DRISCOLL, FEE, GROVE, A. HARRIS, JOZWIAK, KINSEY,  
KNOWLES, MALONEY, McNEILL, MILLARD, MURT, NEILSON, READSHAW,  
ROZZI, SCHLOSSBERG, SCHWEYER, THOMAS, WARD, WARNER, WHITE,  
COHEN, GILLEN, ROTHMAN, BRADFORD, KORTZ, MICCARELLI, NELSON,  
DUSH, GABLER AND DAVIS, SEPTEMBER 29, 2015

AS AMENDED ON THIRD CONSIDERATION, IN SENATE, OCTOBER 24, 2016

AN ACT

1 Amending Title 51 (Military Affairs) of the Pennsylvania  
2 Consolidated Statutes, PROVIDING FOR VOLUNTARY VETERANS' <--  
3 PREFERENCE IN PRIVATE EMPLOYMENT; AND, in veteran-owned small  
4 businesses, further providing for definitions and for  
5 regulations and providing for business fee exemption.

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

8 ~~Section 1. Chapter 96 of Title 51 of the Pennsylvania~~ <--  
9 ~~Consolidated Statutes is amended by adding a subchapter heading~~  
10 ~~to read:~~

11 SECTION 1. TITLE 51 OF THE PENNSYLVANIA CONSOLIDATED <--  
12 STATUTES IS AMENDED BY ADDING A CHAPTER TO READ:

CHAPTER 72

VOLUNTARY VETERANS' PREFERENCE

IN PRIVATE EMPLOYMENT

16 SEC.

1 7201. SCOPE OF CHAPTER.  
2 7202. DEFINITIONS.  
3 7203. VETERANS' PREFERENCE PRIVATE EMPLOYMENT POLICY.  
4 7204. ELIGIBILITY FOR PREFERENCE.  
5 7205. NONVIOLATION OF EQUAL OPPORTUNITY LAWS.

6 § 7201. SCOPE OF CHAPTER.

7 THIS CHAPTER RELATES TO PRIVATE EMPLOYER'S VETERANS'  
8 PREFERENCE POLICIES.

9 § 7202. DEFINITIONS.

10 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS CHAPTER  
11 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE  
12 CONTEXT CLEARLY INDICATES OTHERWISE:

13 "DD 214." A UNITED STATES DEPARTMENT OF DEFENSE REPORT OF  
14 SEPARATION FORM 214 OR A SIMILARLY EFFECTIVE FORM ISSUED BY THE  
15 DEPARTMENT OF DEFENSE RELATING TO SEPARATION FROM MILITARY  
16 SERVICE.

17 "PRIVATE EMPLOYER." A SOLE PROPRIETOR, CORPORATION,  
18 PARTNERSHIP, LIMITED LIABILITY COMPANY OR ANY OTHER LEGAL  
19 ENTITY, INCLUDING NONPROFITS, WITH MORE THAN ONE EMPLOYEE.

20 "SOLDIER." A PERSON WHO SERVED OR HEREAFTER SERVES IN THE  
21 ARMED FORCES OF THE UNITED STATES, OR IN ANY WOMEN'S  
22 ORGANIZATION OFFICIALLY CONNECTED THEREWITH, DURING ANY WAR OR  
23 ARMED CONFLICT IN WHICH THE UNITED STATES ENGAGED AND WHO WAS  
24 RELEASED FROM ACTIVE DUTY UNDER HONORABLE CONDITIONS, OTHER THAN  
25 FROM PERIODS OF ACTIVE DUTY FOR TRAINING, OR WITH AN HONORABLE  
26 DISCHARGE FROM SUCH SERVICE, OR A PERSON WHO SO SERVED OR  
27 HEREAFTER SERVES IN THE ARMED FORCES OF THE UNITED STATES, OR IN  
28 ANY WOMEN'S ORGANIZATION OFFICIALLY CONNECTED THEREWITH, SINCE  
29 JULY 27, 1953, INCLUDING SERVICE IN VIETNAM, AND WHO HAS AN  
30 HONORABLE DISCHARGE FROM SUCH SERVICE. QUALIFYING PERIODS OF

1 SERVICE DURING A WAR OR ARMED CONFLICT, FOR PURPOSES OF THIS  
2 DEFINITION, WILL BE DESIGNATED BY THE DEPARTMENT OF MILITARY AND  
3 VETERANS AFFAIRS.

4 "SPOUSE OF A DISABLED VETERAN." THE SPOUSE OF A VETERAN WHO  
5 HAS BEEN CLASSIFIED BY THE UNITED STATES DEPARTMENT OF VETERANS  
6 AFFAIRS' VETERANS BENEFITS ADMINISTRATION AS HAVING A PERMANENT  
7 TOTAL DISABILITY AND IS A UNITED STATES CITIZEN.

8 "SURVIVING SPOUSE." A SPOUSE OF A DECEASED SOLDIER.

9 "VETERAN." AN INDIVIDUAL WHO HAS SERVED IN THE ARMED FORCES  
10 OF THE UNITED STATES, INCLUDING A RESERVE COMPONENT AND NATIONAL  
11 GUARD, AND WHO HAS BEEN DISCHARGED OR RELEASED FROM THE SERVICE  
12 UNDER CONDITIONS OTHER THAN DISHONORABLE.

13 "VETERANS' PREFERENCE EMPLOYMENT POLICY." A VOLUNTARY POLICY  
14 ADOPTED BY A PRIVATE EMPLOYER FOR HIRING, PROMOTING OR RETAINING  
15 A VETERAN, A SPOUSE OF A DISABLED VETERAN OR A SURVIVING SPOUSE  
16 OVER ANOTHER QUALIFIED APPLICANT OR EMPLOYEE.

17 § 7203. VETERANS' PREFERENCE PRIVATE EMPLOYMENT POLICY.

18 (A) AUTHORITY.--A PRIVATE EMPLOYER MAY ADOPT AND APPLY A  
19 VETERANS' PREFERENCE EMPLOYMENT POLICY. <--

20 (B) POLICY.--A VETERANS' PREFERENCE EMPLOYMENT POLICY SHALL:

21 (1) BE IN WRITING;

22 (2) REQUIRE THE INCLUSION OF A STATEMENT IN ANY JOB  
23 POSTING THAT INDICATES THAT THE EMPLOYER HAS AND APPLIES A  
24 VETERANS' PREFERENCE EMPLOYMENT POLICY;

25 (3) BE PROVIDED TO THE APPLICANT AT TIME OF HIRING AND  
26 PROVIDED TO ALL EMPLOYEES ON AN ANNUAL BASIS; AND

27 (4) BE APPLIED UNIFORMLY TO EMPLOYMENT DECISIONS

28 REGARDING:

29 (I) THE HIRING OF NEW APPLICANTS;

30 (II) THE PROMOTION OF CURRENT EMPLOYEES; AND

1                   (III) THE RETENTION OF EMPLOYEES DURING A REDUCTION  
2                   IN THE WORK FORCE.

3 § 7204. ELIGIBILITY FOR PREFERENCE.

4                   A VETERAN, SPOUSE OF A DISABLED VETERAN OR SURVIVING SPOUSE  
5 SHALL SUBMIT THE DD 214 OF THE VETERAN TO A PRIVATE EMPLOYER  
6 WITH A VETERANS' PREFERENCE EMPLOYMENT POLICY FOR CONSIDERATION  
7 BY THE EMPLOYER.

8 § 7205. NONVIOLATION OF EQUAL OPPORTUNITY LAWS.

9                   A VOLUNTARY VETERANS' PREFERENCE EMPLOYMENT POLICY ADOPTED  
10 AND APPLIED IN ACCORDANCE WITH THIS CHAPTER SHALL NOT BE  
11 CONSIDERED A VIOLATION OF ANY STATE OR LOCAL EQUAL EMPLOYMENT  
12 OPPORTUNITY LAW.

13           SECTION 2. CHAPTER 96 OF TITLE 51 IS AMENDED BY ADDING A  
14 SUBCHAPTER HEADING TO READ:

15   SUBCHAPTER A  
16   PRELIMINARY PROVISIONS

17           Section ~~2~~ 3. Section 9601 of Title 51 is amended to read:     <--  
18 § 9601. Definitions.

19           Subject to section 9602 (relating to regulations), the  
20 following words and phrases when used in this chapter shall have  
21 the meanings given to them in this section unless the context  
22 clearly indicates otherwise:

23           "Commonwealth agency." As defined in 62 Pa.C.S. § 103  
24 (relating to definitions).

25           "Executive agency." As defined in 62 Pa.C.S. § 103 (relating  
26 to definitions).

27           "Purchasing agency." As defined in 62 Pa.C.S. § 103  
28 (relating to definitions).

29           "Service-disabled." Being in possession of:

30                   (1) a disability rating letter issued by the United

1 States Department of Veterans Affairs; or

2 (2) a disability determination from the United States  
3 Department of Defense.

4 "Service-disabled veteran-owned small business." A small  
5 business owned and controlled by:

6 (1) a service-disabled veteran or veterans; or

7 (2) if approved by the Department of General Services, a  
8 surviving spouse or permanent caregiver of a service-disabled  
9 veteran.

10 "Small business." As defined in 62 Pa.C.S. § 2102 (relating  
11 to definitions).

12 "State-affiliated entity." As defined in 62 Pa.C.S. § 103  
13 (relating to definitions).

14 "Veteran." [An individual who served on active duty in the  
15 United States Armed Forces, including any of the following:

16 (1) A reservist or member of the National Guard who was  
17 discharged or released from the service under honorable  
18 conditions.

19 (2) A reservist or member of the National Guard who  
20 completed an initial term of enlistment or qualifying period  
21 of service.

22 (3) A reservist or member of the National Guard who was  
23 disabled in the line of duty during training.] An individual  
24 who served in the United States Armed Forces, including a  
25 reserve component or the National Guard, and who was  
26 discharged or released from service under conditions other  
27 than dishonorable.

28 "Veteran-owned small business." A small business owned and  
29 controlled by a veteran or veterans.

30 Section 3 4. Chapter 96 of Title 51 is amended by adding a <--

1 subchapter heading to read:

2 SUBCHAPTER B

3 PARTICIPATION

4 Section ~~4~~ 5. Section 9602 of Title 51 is amended to read: <--

5 § 9602. Regulations.

6 (a) Promulgation.--The Department of General Services shall  
7 establish policy in accordance with this [chapter] subchapter  
8 for executive agencies and independent agencies and may, in  
9 consultation with the department, promulgate regulations  
10 establishing detailed definitions of the words and phrases  
11 defined in section 9601 (relating to definitions) using, in  
12 addition to the criteria set forth in section 9601, other  
13 criteria as it deems appropriate, including the number of  
14 employees and the dollar volume of business.

15 (b) Implementation.--State-affiliated entities shall  
16 implement the policy for their procurement programs.

17 (c) Antifraud provisions.--The Department of General  
18 Services shall establish policy and promulgate regulations  
19 establishing antifraud provisions to deter and penalize  
20 businesses that are not owned by those who are service-disabled  
21 or by veterans but who falsely claim that they are in order to  
22 receive any action authorized by this [chapter] subchapter.

23 (d) Notice.--Notice of the antifraud provisions and an  
24 e-mail address and telephone number to report violations of the  
25 antifraud provisions to the Department of General Services shall  
26 be included, if feasible, in any application to be certified or  
27 to be included in any source list authorized by this [chapter]  
28 subchapter. The Department of General Services shall include in  
29 its annual reports to the General Assembly information about the  
30 number of businesses penalized for violating antifraud

1 provisions.

2 Section 5 6. Chapter 96 of Title 51 is amended by adding a <--  
3 subchapter to read:

4 SUBCHAPTER C  
5 BUSINESS FEE EXEMPTION

6 Sec.

7 9610. Definitions.

8 9611. Exemption.

9 § 9610. Definitions.

10 As used in this subchapter, the following words and phrases  
11 shall have the meanings given to them in this section unless the  
12 context clearly indicates otherwise:

13 "Business fee." A fee required to be paid to the  
14 Commonwealth or an instrumentality of the Commonwealth A <--  
15 POLITICAL SUBDIVISION for starting or opening a business within  
16 this Commonwealth. The term does not include a fee for  
17 maintaining licensure or other requirement for continuing to  
18 operate a business.

19 "Reservist." A member of a United States Armed Forces  
20 reserve component or National Guard.

21 "Reservist-owned small business." A business owned and  
22 controlled by a member of a United States Armed Forces reserve  
23 component or National Guard.

24 § 9611. Exemption.

25 (a) Payment.--A veteran-owned or reservist-owned small  
26 business shall be exempt from the payment of a business fee.

27 (b) Proof.--A veteran or reservist must provide the  
28 department OR LICENSING AUTHORITY OF A POLITICAL SUBDIVISION <--  
29 with proof of the veteran's or reservist's status using any of  
30 the following WITH ANY BUSINESS APPLICATION: <--

- 1           (1) A copy of a Federal DD-214 form.  
2           (2) A copy of a Federal NGB-22 form.  
3           (3) A valid Federal Veterans' Administration card.  
4           (4) A valid Department of Defense-issued military  
5           identification card.

6           (c) Status.--The Department of State OR LICENSING AUTHORITY <--  
7           OF A POLITICAL SUBDIVISION, in consultation with other  
8           Commonwealth agencies, may determine an applicant's status as a  
9           veteran or reservist in accordance with this section.

10          (d) Offenses.--

11           (1) A person who fraudulently obtains a business fee  
12           exemption commits a misdemeanor of the third degree.

13           (2) A person assigning, transferring or attempting to  
14           assign or transfer a business fee exemption or using or  
15           attempting to use a business fee exemption contrary to this  
16           section commits a misdemeanor of the third degree.

17          (e) Reporting.--The Department of State shall annually  
18          determine the total number of business fee exemptions issued <--  
19          under this section. APPLIED FOR AND ISSUED AND THE TOTAL DOLLAR <--  
20          AMOUNT OF THE EXEMPTIONS UNDER THIS SECTION AND SUBMIT A REPORT  
21          TO THE CHAIR AND MINORITY CHAIR OF THE VETERANS AFFAIRS AND  
22          EMERGENCY PREPAREDNESS COMMITTEE OF THE SENATE AND THE CHAIR AND  
23          MINORITY CHAIR OF THE VETERANS AFFAIRS AND EMERGENCY  
24          PREPAREDNESS COMMITTEE OF THE HOUSE OF REPRESENTATIVES. THE  
25          REPORT MAY BE SUBMITTED ELECTRONICALLY.

26          Section 6 7. The amendment of 51 Pa.C.S. §§ 9601 and 9602 <--  
27          shall not affect nor impair the status of any of the following  
28          under 51 Pa.C.S. Ch. 96 or 74 Pa.C.S.:

- 29           (1) A veteran-owned small business.  
30           (2) A service-disabled veteran-owned small business.



1 Section 7 8. This act shall take effect in 60 days.

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