

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2107 Session of 2015

INTRODUCED BY BAKER, MILLARD, SCHLOSSBERG, TOEPEL, PICKETT, CUTLER, MURT, DeLUCA, WHEELAND, ZIMMERMAN, PHILLIPS-HILL, WATSON, EVERETT, GROVE, PETRI, RAPP, FRANKEL, GILLEN, MOUL, BENNINGHOFF, KLUNK, KAUFER, SAYLOR AND MACKENZIE, MAY 27, 2016

AS REPORTED FROM COMMITTEE ON STATE GOVERNMENT, HOUSE OF REPRESENTATIVES, AS AMENDED, JUNE 28, 2016

AN ACT

1 Amending Title 62 (Procurement) of the Pennsylvania Consolidated
2 Statutes, further providing for prohibited contracts. <--

3 The General Assembly of the Commonwealth of Pennsylvania
4 hereby enacts as follows:

5 Section 1. Title 62 of the Pennsylvania Consolidated
6 Statutes is amended by adding a chapter to read:

CHAPTER 36

PROHIBITED CONTRACTS

9 Sec.

10 3601. Short title of chapter.

11 3602. Declaration of purpose.

12 3603. Definitions.

13 3604. Prohibition.

14 3605. Certification.

15 3606. Penalties for false certification.

16 § 3601. Short title of chapter.

1 This chapter shall be known and may be cited as the
2 Prohibited Contracts Act.

3 § 3602. Declaration of purpose.

4 The General Assembly finds and declares as follows:

5 (1) Pennsylvania is privileged to engage in
6 international trade and commercial activities.

7 (2) Israel is America's dependable, democratic ally in
8 the Middle East, an area of paramount strategic importance to
9 the United States.

10 (3) It is in the interest of the United States and the
11 Commonwealth to stand with Israel and other countries by
12 promoting trade and commercial activities and to discourage
13 policies that disregard that interest.

14 § 3603. Definitions.

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

18 "Boycott." To blacklist, divest from or otherwise refuse to
19 deal with a person or firm when the action is based on race,
20 color, religion, gender or national AFFILIATION OR origin of the <--
21 targeted person or entity.

22 "Company." Any sole proprietorship, organization,
23 association, corporation, partnership, joint venture, limited
24 partnership, limited liability company or other entity or
25 business association qualified to do business in this
26 Commonwealth.

27 § 3604. Prohibition.

28 Notwithstanding any other provision of law, the department
29 may not contract with a company to acquire or dispose of
30 supplies, services or construction unless the company certifies

1 that:

2 (1) the company is not currently engaged in a boycott of
3 a person or an entity based in or doing business with a
4 jurisdiction which the Commonwealth is not prohibited by
5 Congressional statute from engaging in trade or commerce; and

6 (2) the company will not during the duration of the
7 contract engage in a boycott of a person or an entity based
8 in or doing business with a jurisdiction where the
9 Commonwealth is not prohibited by Congressional statute from
10 engaging in trade or commerce.

11 § 3605. Certification.

12 The department shall make available a certification form
13 indicating that a company is eligible to contract with the
14 department under section 3604 (relating to prohibition). The
15 company shall provide a certification form to the department
16 prior to entering into a contract.

17 § 3606. Penalties for false certification.

18 (a) Penalties.--A company shall pay a civil penalty in the
19 amount of \$250,000 or twice the amount of the contract,
20 whichever is greater, if the department determines that the
21 company provided a false certification form to the department
22 under section 3604 (relating to prohibition).

23 (b) Report of false certification.--The department shall
24 report to the Attorney General the name of the company that
25 submitted the false certification and the pertinent information
26 that led to the department's determination. No later than three
27 years after the department makes a determination under
28 subsection (a), the Attorney General shall determine whether to
29 bring a civil action against the company to collect the penalty
30 described in subsection (a). If a court determines the company

1 submitted a false certification, the company shall pay all
2 reasonable costs and fees incurred in the civil action.
3 Reasonable costs shall include the reasonable costs incurred by
4 the Commonwealth entity in investigating the authenticity of the
5 certification. Only one civil action against the company may be
6 brought for a false certification on a contract.

7 (c) No private right of action.--Nothing in this section may
8 be construed to create or authorize a private right of action.

9 Section 2. This act shall take effect in 60 days.