

No. 437

AN ACT

To amend section 404 of the act, approved the first day of June, one thousand nine hundred forty-five (Pamphlet Laws 1242), entitled "An act relating to roads, streets, highways and bridges; amending, revising, consolidating and changing the laws administered by the Secretary of Highways and by the Department of Highways relating thereto," by requiring that the additional bond covering labor and materials furnished by the contractor shall also cover equipment rental.

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

State Highway
Law.

Section 1. Section 404 of the act, approved the first day of June, one thousand nine hundred forty-five (Pamphlet Laws 1242), entitled "An act relating to roads, streets, highways and bridges; amending, revising, consolidating and changing the laws administered by the Secretary of Highways and by the Department of Highways relating thereto," is hereby amended to read as follows:

Section 404, act
of June 1, 1945.
P. L. 1242,
amended.

Section 404. Awarding Contracts; Bonds.—In awarding any contract, the work shall be given to the lowest responsible bidder, with the option on the part of the secretary to reject any or all bids, if the prices named for the work or materials to be used are higher than the estimated cost, or for any other reason appearing to the secretary. Every person, before being awarded any contract for the construction or improvement of any State highway, under the provisions of this act, shall furnish a bond with sufficient surety or sureties, in a sum equal to fifty per centum of the contract price of the work, conditioned that the contractor shall, well and truly and in a manner satisfactory to the secretary, complete the work contracted for, and shall save harmless the Commonwealth of Pennsylvania from any expense through the failure of said contractor to complete the work as specified, or from any damages growing out of the carelessness of said contractor or his or its servants. Where the amount of such contract is in excess of five hundred dollars (\$500), it shall be the duty of the department to require every person, co-partnership, association, or corporation entering into such contract, before commencing work thereunder, to execute and deliver, to the Commonwealth of Pennsylvania, an additional bond, for the use of all persons interested, in a sum equal to fifty per centum of the contract price of the work, which bond shall be conditioned for the prompt payment of all material furnished and labor supplied or performed, *rental of equipment used*, and services rendered by public utilities in, or in connection with, the prosecution of the work, whether or not such material,

equipment rental, or labor entered into and became component parts of the work or improvement contemplated. Such additional bond shall be deposited with and held by the department for the use of any party interested therein. Every such additional bond shall provide that every person, who, whether as subcontractor or otherwise, has furnished material or *equipment on rental* or supplied or performed labor or services on, or in connection with, the prosecution of the work, and who has not been paid therefor, may sue in assumpsit on such additional bond, in the name of the Commonwealth, for his use and prosecute the same to final judgment for such sum or sums as may be justly due him, and have execution thereon. The Commonwealth shall not be liable for the payment of any costs or expense of any such suit. Each of such surety bonds shall have as surety thereon one or more surety companies legally authorized to transact business in this Commonwealth and satisfactory to the secretary: *Provided, however, That such additional bond shall be conditioned only for the prompt payment of actual equipment rentals, and shall not be conditioned upon or guarantee payment of equipment rentals, all or any part of which, directly or indirectly, apply on the purchase price of such equipment under the terms of a bailment lease or conditional sales contract or by any other arrangement by which title to the equipment will be transferred to the contractor and the rentals form any part of the consideration.*

APPROVED—The 3rd day of April, A. D. 1956.

GEORGE M. LEADER

No. 438

AN ACT

Amending the act of September twenty-six, one thousand nine hundred fifty-one (Pamphlet Laws 1518), entitled "An act to provide for the registration and protection of trade-marks and to secure the rights, property and interests therein; providing for the assignment, cancellation and revocation thereof; and imposing penalties for violations; conferring powers and imposing duties upon the Secretary of the Commonwealth in the administration thereof; and to repeal all acts inconsistent therewith," further defining the right to registration.

Trademarks.

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

Clause (e), section 2, act of September 26, 1951, P. L. 1518, amended.

Section 1. Clause (e) of section two, act of September twenty-six, one thousand nine hundred fifty-one (Pamphlet Laws 1518) entitled "An act to provide for the registration and protection of trade-marks and to