

No. 1984-144

## AN ACT

HB 1636

Amending the act of March 3, 1978 (P.L.6, No.3), entitled "An act to promote the general welfare and stimulate the economy of the Commonwealth by requiring that all public bodies, including the Commonwealth, its political subdivisions, and all authorities, include in all contracts for construction, reconstruction, alteration, repair, improvement or maintenance of improvements of a permanent or temporary nature, a provision that if any steel products are to be used in the performance of the contract only steel products produced in the United States shall be used, and imposing liability for violation of this act," further providing for compliance with the act; providing for the imposition of a ban on bidding for violations of certain provisions of the act; further defining "public works"; and further defining "steel products" to include machinery and equipment.

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

Section 1. Section 5 of the act of March 3, 1978 (P.L.6, No.3), known as the Steel Products Procurement Act, repealed in part October 5, 1980 (P.L.693, No.142), is amended to read:

Section 5. (a) No public agency shall authorize, provide for or make any payments to any person under any contract containing the provision required by section 4 unless **[the public agency is satisfied]**, *when unidentified steel products are supplied under a contract, such person has provided documentation including, but not limited to, invoices, bills of lading, and mill certification that the steel was melted and manufactured in the United States, which establish that such person has fully complied with such provision. If a steel product is identifiable from its face, such person must submit certification which satisfies the public agency that such person has fully complied with the provision required by section 4.* Any such payments made to any person by any public agency which should not have been made as a result of this section shall be recoverable directly from the contractor **[or]**, subcontractor, *manufacturer or supplier* who did not comply with section 4 by either such public agency or the Attorney General of Pennsylvania.

(b) *In addition to the withholding of payments, any person who willfully violates any of the provisions of this act shall be prohibited from submitting any bids to any public agency for any contract for a period of five years from the date of the determination that a violation has occurred. In the event the person who violates the provisions of section 4(a) is a subcontractor, manufacturer or supplier, such person shall be prohibited from performing any work or supplying any materials to a public agency for a period of five years from the date of the determination that a violation has occurred.*

(c) *Title 2 of the Pennsylvania Consolidated Statutes (relating to administrative law and procedure) applies to decisions by public agencies that a person has violated section 4(a).*

Section 2. The definitions of "public works" and "steel products" in section 6 of the act, the definition of "steel products" amended June 18, 1982 (P.L.556, No.161), are amended to read:

Section 6. The following words and phrases when used in this act shall have, unless the context clearly indicates otherwise, the meanings given to them in this section:

\* \* \*

"Public works." Any structure, building, highway, waterway, street, bridge, transit system, airport or other betterment, work or improvement whether of a permanent or temporary nature and whether for governmental or proprietary use. *The term includes, but is not limited to, any railway, street railway, subway, elevated and monorail passenger or passenger and rail rolling stock, self-propelled cars, gallery cars, locomotives, passenger buses, wires, poles and equipment for electrification of a transit system, rails, tracks, roadbeds, guideways, elevated structures, buildings, stations, terminals, docks, shelters and repairs to any of the foregoing.*

"Steel products." Products rolled, formed, shaped, drawn, extruded, forged, cast, fabricated or otherwise similarly processed, or processed by a combination of two or more of such operations, from steel made in the United States by the open hearth, basic oxygen, electric furnace, Bessemer or other steel making process and shall include cast iron products *and shall include machinery and equipment listed in United States Department of Commerce Standard Industrial Classification 25 (furniture and fixture), 35 (machinery, except electrical) and 37 (transportation equipment) and made of, fabricated from, or containing steel components. If a product contains both foreign and United States steel, such product shall be determined to be a United States steel product only if at least 75% of the cost of the articles, materials and supplies have been mined, produced or manufactured, as the case may be, in the United States. Transportation equipment shall be determined to be a United States steel product if it complies with section 165 of Public Law 97-424 (96 Stat. 2136).*

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Section 3. This act shall not apply to any contract awarded pursuant to an invitation for bids issued on or before the effective date of this act.

Section 4. This act shall take effect in 60 days.

APPROVED—The 9th day of July, A. D. 1984.

DICK THORNBURGH