

RECEIVED

01 MAR 15 AM 10:46

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE
(Regular Session, 2001)

ENROLLED

SENATE BILL NO. 124

(By Senators Tomblin, Mr. President, and
Sprouse, By request of the Executive)

PASSED March 8, 2001

In Effect 90 days from Passage

RECEIVED
01 MAR 15 AM 10:46
OFFICE OF THE CLERK
WEST VIRGINIA LEGISLATURE

ENROLLED

Senate Bill No. 124

(BY SENATORS TOMBLIN, MR. PRESIDENT, AND SPROUSE,
BY REQUEST OF THE EXECUTIVE)

[Passed March 8, 2001; in effect ninety days from passage.]

AN ACT to amend article three, chapter five-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section fifty-six, relating to prohibiting contractors from using or supplying steel products for state contract projects other than those steel products made in the United States; definitions; authorization by director of purchasing to use foreign steel products; civil penalties for use or supply of prohibited steel products; circumstances under which contractors are not subject to civil penalties; disposition of civil penalties collected; investigations and findings by director of purchasing; requests by director of purchasing to attorney general to commence civil actions for violations; circumstances under which provisions void; and resolution of conflicts between statutes.

Be it enacted by the Legislature of West Virginia:

That article three, chapter five-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section fifty-six, to read as follows:

ARTICLE 3. PURCHASING DIVISION.

§5A-3-56. Preference for the use of domestic steel products in state contract projects; exceptions; civil penalties.

1 (a)(1) Except when authorized pursuant to the provisions
2 of subsection (b) of this section, no contractor may use or
3 supply steel products for a state contract project other
4 than those steel products made in the United States.

5 (2) As used in this section:

6 (A) "State contract project" means any erection or
7 construction of, or any addition to, alteration of or other
8 improvement to any building or structure, including, but
9 not limited to, roads or highways, or the installation of any
10 heating or cooling or ventilating plants or other equip-
11 ment, or the supply of any materials for such projects,
12 pursuant to a contract with the state of West Virginia for
13 which bids were solicited on or after the effective date of
14 this section.

15 (B) "Steel products" means products rolled, formed,
16 shaped, drawn, extruded, forged, cast, fabricated or
17 otherwise similarly processed, or processed by a combina-
18 tion of two or more of such operations, from steel made by
19 the open hearth, basic oxygen, electric furnace, bessemer
20 or other steel making process.

21 (C) "United States" means the United States of America
22 and includes all territory, continental or insular, subject to
23 the jurisdiction of the United States.

24 (b) Notwithstanding any provision of subsection (a) of
25 this section to the contrary, the director of the purchasing
26 division may, in writing, authorize the use of foreign steel
27 products if:

28 (1) The cost for each contract item used does not exceed
29 one tenth of one percent of the total contract cost or two
30 thousand five hundred dollars, whichever is greater. For
31 the purposes of this section, the cost is the value of the
32 steel product as delivered to the project; or

33 (2) The director of the purchasing division determines
34 that specified steel materials are not produced in the
35 United States in sufficient quantity or otherwise are not
36 reasonably available to meet contract requirements.

37 (c) A contractor who uses steel products in violation of
38 subsection (a) of this section shall pay a civil penalty equal
39 to one and one-half times the cost of the steel products
40 used in violation of said subsection: *Provided*, That any
41 contractor in violation of this section who relied in good
42 faith upon documents of title and origin indicating that
43 the steel products were made in the United States shall not
44 be subject to the civil penalty. All civil penalties paid
45 pursuant to this section shall be collected by the director
46 and deposited in the general revenue fund of the state.

47 (d) When the director of the purchasing division has
48 reasonable cause to believe that a contractor has used or
49 is using steel products in violation of subsection (a) of this
50 section, the director shall conduct an investigation to
51 determine whether the contractor has used or is using steel
52 products in violation of said subsection. Upon a finding
53 by the director pursuant to the investigation that the
54 contractor has used or is using steel products in violation
55 of subsection (a) of this section, the director shall request
56 the attorney general to commence an action under this
57 section against the contractor for the violation. Any
58 action under this section is a civil action.

59 (e) If any of the requirements or provisions set forth in
60 this section jeopardize the receipt of federal funds, then
61 such requirement or provision shall be void and of no force
62 and effect.

63 (f) It is the intent of the Legislature that the provisions
64 of article nineteen, chapter five of this code continue in
65 force, except to the extent that if any provision of said

66 article is construed to conflict with a provision of this
67 section, the conflict shall be resolved in favor of the
68 provisions of this section.

69 (g) This section may be cited as the "West Virginia
70 American Steel Act of 2001".

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Carly Olm
.....
Chairman Senate Committee

A. James Powell
.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Darrell Stephens
.....
Clerk of the Senate

Bryony R. Brown
.....
Clerk of the House of Delegates

Carl Ray Tomblin
.....
President of the Senate

[Signature]
.....
Speaker House of Delegates

The within *is approved* this the *14th*
Day of *March*, 2001.

Bob Wise
.....
Governor

PRESENTED TO THE

GOVERNOR

Date 3/2/01

Time 2:05 pm