WEST VIRGINIA CODE: §5A-3-56

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

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

(2) As used in this section:

(A) "State contract project" means any erection or construction of, or any addition to, alteration of or other improvement to any building or structure, including, but not limited to, roads or highways, or the installation of any heating or cooling or ventilating plants or other equipment, or the supply of any materials for such projects, pursuant to a contract with the State of West Virginia for which bids were solicited on or after the effective date of this section.

(B) "Steel products" means 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 by the open hearth, basic oxygen, electric furnace, bessemer or other steel making process.

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

(b) Notwithstanding any provision of subsection (a) of this section to the contrary, the director of the Purchasing Division may, in writing, authorize the use of foreign steel products if:

(1) The cost for each contract item used does not exceed one tenth of one percent of the total contract cost or $2,500, whichever is greater. For the purposes of this section, the cost is the value of the steel product as delivered to the project; or

(2) The director of the Purchasing Division determines that specified steel materials are not produced in the United States in sufficient quantity or otherwise are not reasonably available to meet contract requirements.

(c) A contractor who uses steel products in violation of subsection (a) of this section shall pay a civil penalty equal to one and one-half times the cost of the steel products used in violation of said subsection: Provided, That any contractor in violation of this section who relied in good faith upon documents of title and origin indicating that the steel products were made in the United States shall not be subject to the civil penalty. All civil penalties paid pursuant to this section shall be collected by the director and deposited in the General

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Revenue Fund of the state.

(d) When the director of the Purchasing Division has reasonable cause to believe that a contractor has used or is using steel products in violation of subsection (a) of this section, the director shall conduct an investigation to determine whether the contractor has used or is using steel products in violation of said subsection. Upon a finding by the director pursuant to the investigation that the contractor has used or is using steel products in violation of subsection (a) of this section, the director shall request the Attorney General to commence an action under this section against the contractor for the violation. Any action under this section is a civil action.

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

(f) It is the intent of the Legislature that the provisions of article nineteen, chapter five of this code continue in force, except to the extent that if any provision of said article is construed to conflict with a provision of this section, the conflict shall be resolved in favor of the provisions of this section.

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

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