

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1978

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ENROLLED

Committee Substitute for

HOUSE BILL No. 1559

(By Mr. Donley and Mr. Brenda)

— ● —

PASSED March 9, 1978

In Effect ninety days from Passage

ENROLLED
COMMITTEE SUBSTITUTE
FOR

H. B. 1559

(By MR. DONLEY and MR. BRENDA)

[Passed March 9, 1978; in effect ninety days from passage.]

AN ACT to amend chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article nineteen, relating to requiring use of domestic aluminum, glass and steel in all public works projects; exceptions to requirements; defining terms; requiring inclusion of contract provision for use of domestic aluminum, glass and steel in all public works contracts; prohibiting payments to contractors not complying with such provision; and authorizing recovery of payments made to such contractors.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 19. DOMESTIC ALUMINUM, GLASS AND STEEL IN PUBLIC WORKS PROJECTS.

§5-19-1. Definitions.

- 1 Unless the context in which used clearly requires a different
2 meaning, as used in this article:

3 "Public agency" means the state of West Virginia, counties,
4 municipalities, towns, boards of education, public service dis-
5 tricts, and other political subdivisions of this state.

6 "Public works" includes roads, highways, streets, bridges,
7 sidewalks, sewage systems, buildings, engineering and archi-
8 tectural works, and any other structure, facility or improve-
9 ment constructed or undertaken by a public agency.

10 "Aluminum, glass and steel products" means products
11 rolled, formed, shaped, drawn, extruded, forged, cast, fabri-
12 cated, or otherwise similarly processed from aluminum, glass
13 and steel; "domestic aluminum, glass and steel products"
14 means aluminum, glass and steel products made in the United
15 States.

**§5-19-2. Preference for domestic aluminum, glass and steel pro-
ducts; mandatory contract provision; exceptions.**

1 (a) Every public agency shall require that every contract
2 and subcontract for the construction, reconstruction, alteration,
3 repair, improvement or maintenance of public works contain
4 a provision that, if any aluminum, glass or steel products are
5 to be supplied in the performance of the contract, or sub-
6 contract, only domestic aluminum, glass or steel products shall
7 be supplied unless the chief executive or governing body of
8 such agency, as the case may be, determines after the receipt
9 of offers or bids, that the cost of domestic aluminum, glass or
10 steel products is unreasonable or that domestic aluminum,
11 glass or steel products are not produced in sufficient quantities
12 to meet the contract requirements: *Provided*, That this article
13 does not apply to any public works contract awarded in an
14 amount less than fifty thousand dollars.

15 (b) The offered or bid price of domestic aluminum, glass
16 or steel products is not unreasonable unless it is more than
17 twenty percent higher than the offered or bid price of foreign-
18 made aluminum, glass or steel products (including any ap-
19 plicable duty): *Provided*, That if the aluminum, glass or steel
20 products to be supplied are produced in a "substantial labor
21 surplus area" as determined by the United States department
22 of labor, the offered or bid price of domestic aluminum, glass
23 or steel products is not unreasonable unless it is more than

24 thirty percent higher than the offered or bid price of foreign-
25 made aluminum, glass or steel products (including any ap-
26 plicable duty).

§5-19-3. Contract payments; recovery in cases of violation of article.

1 A public agency may not authorize or make any payments
2 to a contractor under a contract which contains or should
3 contain the provision required by section two of this article
4 unless such contractor has fully complied with such pro-
5 vision. Prior to such payment, the public agency shall re-
6 quire sworn certificates of compliance from all contractors,
7 subcontractors and suppliers whose work involved the sup-
8 plying of aluminum, glass or steel products. Payments made
9 by a public agency to any contractor who did not comply with
10 this article may be recovered by such agency.

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

James L. Davis
Chairman Senate Committee

Dorance C. Chuston
Chairman House Committee

Originated in the House.

Takes effect ninety days from passage.

J. C. Dellenger
Clerk of the Senate

C. A. Blankenship
Clerk of the House of Delegates

M. T. Brotherton
President of the Senate

Donald L. Kopp
Speaker House of Delegates

The within is approved this the 30
day of March, 1978.

John D. Rhyne
Governor

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OFFICE OF THE GOVERNOR

APPROVED AND SIGNED BY THE GOVERNOR

Date Mar. 30, 1978

Time 4:50 p.m.

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OFFICE
SECY. OF STATE