WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1978

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ENROLLED

Committee Substitute for

HOUSE BILL No. 1559

(By Mr. Donley and Mr. Brenda)

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PASSED March 9, 1978

In Effect ninety days from Passage

C 641
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 meaning, as used in this article:
“Public agency” means the state of West Virginia, counties, municipalities, towns, boards of education, public service districts, and other political subdivisions of this state.

“Public works” includes roads, highways, streets, bridges, sidewalks, sewage systems, buildings, engineering and architectural works, and any other structure, facility or improvement constructed or undertaken by a public agency.

“Aluminum, glass and steel products” means products rolled, formed, shaped, drawn, extruded, forged, cast, fabricated, or otherwise similarly processed from aluminum, glass and steel; “domestic aluminum, glass and steel products” means aluminum, glass and steel products made in the United States.

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

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

(b) The offered or bid price of domestic aluminum, glass or steel products is not unreasonable unless it is more than twenty percent higher than the offered or bid price of foreign-made aluminum, glass or steel products (including any applicable duty): Provided, That if the aluminum, glass or steel products to be supplied are produced in a “substantial labor surplus area” as determined by the United States department of labor, the offered or bid price of domestic aluminum, glass or steel products is not unreasonable unless it is more than
§5-19-3. Contract payments; recovery in cases of violation of article.

A public agency may not authorize or make any payments to a contractor under a contract which contains or should contain the provision required by section two of this article unless such contractor has fully complied with such provision. Prior to such payment, the public agency shall require sworn certificates of compliance from all contractors, subcontractors and suppliers whose work involved the supplying of aluminum, glass or steel products. Payments made by a public agency to any contractor who did not comply with 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

Florence A. Gunderson  
Chairman House Committee

Originated in the House.

Takes effect ninety days from passage.

J.C. Vella
Clerk of the Senate

L.A. Blankenship
Clerk of the House of Delegates

W.T. Brittingham
President of the Senate

Donald L. Topp
Speaker House of Delegates

The within is approved this the 70th day of  [illegible], 1978.

Governor