

HOUSE BILL 1435

P2

71r3398

By: **Delegates Benson, Burns, Glenn, Gutierrez, Haynes, Hucker, Oaks, Robinson, Schuler, and Stukes**

Rules suspended

Introduced and read first time: March 13, 2007

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Procurement - Purchase of Apparel by State Agencies**

3 FOR the purpose of requiring that a public body require that certain apparel
4 production be performed in the United States; requiring that a public body
5 require that certain apparel production be performed in production facilities
6 that meet certain requirements; requiring that bidders for certain apparel
7 contracts provide contracting agencies with certain information; establishing an
8 Apparel Procurement Board; specifying the powers and duties of the Board;
9 authorizing the Commissioner of Labor and Industry to take certain actions
10 against certain bidders, vendors, or subcontractors under certain circumstances;
11 requiring that apparel contracts and bid application documents contain certain
12 information; authorizing a public body to waive certain requirements of this Act
13 under certain conditions; making this Act severable; and generally relating to
14 the purchase of apparel by public bodies.

15 BY adding to

16 Article - State Finance and Procurement

17 Section 14-409

18 Annotated Code of Maryland

19 (2006 Replacement Volume and 2006 Supplement)

20 Preamble

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 WHEREAS, The State of Maryland has a compelling interest in guaranteeing
2 that apparel acquired by the State is made under conditions of which the State, its
3 citizens, and its employees, can be proud; and

4 WHEREAS, The apparel industry has a history of poor conditions for its
5 workers; and

6 WHEREAS, The largest part of the apparel purchases of the State are for
7 uniforms for Maryland employees; and

8 WHEREAS, These uniforms are intended to project a positive image for the
9 State and foster pride in the jobs being done by State employees; and

10 WHEREAS, The State has a compelling interest in ensuring that these
11 uniforms are produced under excellent working conditions in this State and in the
12 United States of America; now, therefore,

13 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
14 MARYLAND, That the Laws of Maryland read as follows:

15 **Article – State Finance and Procurement**

16 **14-409.**

17 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE
18 MEANINGS INDICATED.

19 (2) “APPAREL” MEANS ANY CLOTHING, HEADWEAR, LINENS, OR
20 FABRIC.

21 (3) “APPAREL CONTRACT” INCLUDES THE PURCHASE, RENTAL,
22 OR OTHER ACQUISITION OF AN APPAREL PRODUCT BY THE STATE, INCLUDING
23 AUTHORIZATION BY THE STATE FOR A VENDOR TO SELL AN APPAREL PRODUCT
24 THROUGH A CASH ALLOWANCE OR VOUCHER ISSUED BY THE STATE AND A
25 LICENSE AGREEMENT WITH A PUBLIC BODY.

26 (4) (I) “APPAREL PRODUCTION” INCLUDES THE CUTTING OR
27 MANUFACTURING OF APPAREL PRODUCTS PERFORMED BY A CONTRACTOR OR
28 SUBCONTRACTOR.

1 (II) **“APPAREL PRODUCTION” DOES NOT INCLUDE THE**
2 **PRODUCTION OF SUPPLIES OR SUNDRIES, INCLUDING BUTTONS, ZIPPERS, AND**
3 **THREAD.**

4 (5) **“BIDDER” MEANS ANY PERSON MAKING A BID WITH A PUBLIC**
5 **BODY TO SERVE AS A VENDOR TO A PUBLIC BODY.**

6 (6) **“PUBLIC BODY” MEANS:**

7 (I) **THE STATE;**

8 (II) **ANY UNIT OF THE STATE; OR**

9 (III) **ANY GOVERNMENTAL OR QUASI-GOVERNMENTAL**
10 **AUTHORITY CREATED BY THE GENERAL ASSEMBLY.**

11 (7) **“VENDOR” MEANS ANY PERSON:**

12 (I) **SELLING OR OTHERWISE PROVIDING APPAREL TO OR**
13 **FOR A PUBLIC BODY; OR**

14 (II) **ENTERING INTO A LICENSE AGREEMENT WITH A PUBLIC**
15 **BODY TO PRODUCE OR PROVIDE ITEMS OF APPAREL BEARING NAMES,**
16 **TRADEMARKS, OR IMAGES OF, OR RELATED TO, THE PUBLIC BODY.**

17 (B) **WHEN PURCHASING OR OTHERWISE OBTAINING APPAREL FROM A**
18 **VENDOR, INCLUDING APPROVING A VENDOR FOR PARTICIPATION IN AN**
19 **ALLOWANCE OR VOUCHER PROGRAM, A PUBLIC BODY SHALL REQUIRE THAT:**

20 (1) **ALL APPAREL PRODUCTION BE PERFORMED IN THE UNITED**
21 **STATES; AND**

22 (2) **THE PRODUCTION FACILITIES MEET THE FOLLOWING**
23 **REQUIREMENTS:**

24 (I) **VENDORS AND THEIR CONTRACTORS AND**
25 **SUBCONTRACTORS MUST:**

1 **1. ADOPT A NEUTRALITY POSITION WITH RESPECT**
2 **TO ATTEMPTS TO ORGANIZE BY THEIR EMPLOYEES; AND**

3 **2. AGREE TO VOLUNTARILY RECOGNIZE A UNION**
4 **WHEN A MAJORITY OF WORKERS HAVE SIGNED CARDS AUTHORIZING UNION**
5 **REPRESENTATION;**

6 **(II) APPAREL PRODUCTION WORKERS EMPLOYED TO**
7 **FULFILL AN APPAREL CONTRACT:**

8 **1. WILL NOT BE TERMINATED EXCEPT FOR JUST**
9 **CAUSE; AND**

10 **2. VENDORS AND THEIR CONTRACTORS AND**
11 **SUBCONTRACTORS WILL PROVIDE A MECHANISM TO RESOLVE ALL DISPUTES**
12 **WITH APPAREL PRODUCTION WORKERS; AND**

13 **(III) APPAREL PRODUCTION WORKERS EMPLOYED TO**
14 **FULFILL AN APPAREL CONTRACT ARE PROVIDED A WORK ENVIRONMENT THAT**
15 **IS:**

16 **1. SAFE AND HEALTHY; AND**

17 **2. CONSISTENT WITH THE EMPLOYMENT**
18 **ANTIDISCRIMINATION REQUIREMENTS OF ARTICLE 49B OF THE CODE;**

19 **(3) APPAREL CONTRACTS ARE AWARDED TO CONTRACTORS, AND**
20 **APPAREL PRODUCTION IS PERFORMED ONLY BY CONTRACTORS OR**
21 **SUBCONTRACTORS, THAT DO NOT HAVE A PATTERN OR PRACTICE OF VIOLATION**
22 **OF LEGAL EMPLOYMENT PROTECTIONS NOT OTHERWISE PREEMPTED BY STATE**
23 **OR FEDERAL LAW, INCLUDING LAWS AND REGULATIONS GOVERNING:**

24 **(I) WAGES AND HOURS;**

25 **(II) DISCRIMINATION; AND**

26 **(III) OCCUPATIONAL SAFETY AND HEALTH; AND**

1 **(4) APPAREL CONTRACTS ARE ISSUED ONLY TO CONTRACTORS,**
2 **AND APPAREL PRODUCTION SHALL ONLY BE PERFORMED BY CONTRACTORS OR**
3 **SUBCONTRACTORS, THAT PROVIDE COMPENSATION AT AN HOURLY RATE**
4 **WHICH, AT 40 HOURS OF WORK A WEEK FOR 50 WEEKS A YEAR, IS NOT LESS**
5 **THAN THE ANNUAL THRESHOLD NONPOVERTY INCOME FOR A FAMILY OF THREE**
6 **AS PUBLISHED BY THE UNITED STATES DEPARTMENT OF HEALTH AND HUMAN**
7 **SERVICES.**

8 **(c) (1) EACH BIDDER FOR AN APPAREL CONTRACT SHALL FILE WITH**
9 **THE CONTRACTING AGENCY IN WRITING THE FOLLOWING INFORMATION:**

10 **(I) EVERY LOCATION WHERE APPAREL PRODUCTION IS TO**
11 **OCCUR, INCLUDING ANY SUBCONTRACTOR LOCATIONS;**

12 **(II) THE NAME AND BUSINESS ADDRESS AND THE IDENTITY**
13 **OF THE PRINCIPAL OFFICERS OF EACH SUBCONTRACTOR THAT IS TO BE USED**
14 **FOR APPAREL PRODUCTION IN FULFILLMENT OF AN APPAREL CONTRACT; AND**

15 **(III) AN AFFIDAVIT THAT EACH APPAREL PRODUCTION**
16 **LOCATION MEETS THE STANDARDS DEFINED IN ITEMS (I) AND (II) OF THIS**
17 **PARAGRAPH.**

18 **(2) THE INFORMATION REPORTED BY A BIDDER TO THE**
19 **CONTRACTING AGENCY UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE**
20 **MADE AVAILABLE TO THE PUBLIC AS SOON AS PRACTICABLE, BUT IN NO EVENT**
21 **LESS THAN 30 DAYS BEFORE A DECISION IS MADE TO AWARD AN APPAREL**
22 **CONTRACT TO A VENDOR.**

23 **(3) (I) DURING THE TERM OF A CONTRACT, ANY CHANGES TO**
24 **THE INFORMATION REPORTED TO THE CONTRACTING AGENCY BY A VENDOR**
25 **UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE SUBMITTED TO THE**
26 **PUBLIC BODY.**

27 **(II) THE PUBLIC BODY SHALL:**

28 **1. REPORT ALL INFORMATION REQUIRED TO BE**
29 **SUBMITTED BY A VENDOR UNDER THIS SECTION TO THE APPAREL**
30 **PROCUREMENT BOARD; AND**

1 **2. ON REQUEST, MAKE THE INFORMATION**
2 **AVAILABLE TO THE PUBLIC.**

3 **(D) (1) THERE IS AN APPAREL PROCUREMENT BOARD.**

4 **(2) THE APPAREL PROCUREMENT BOARD SHALL BE COMPOSED**
5 **OF:**

6 **(I) THREE INDIVIDUALS REPRESENTING UNIFORMED**
7 **UNIONS OF EMPLOYEES OF THE STATE, SELECTED BY THE MARYLAND STATE**
8 **AFL-CIO;**

9 **(II) THREE INDIVIDUALS REPRESENTING AGENCIES THAT**
10 **EMPLOY UNIFORMED PERSONNEL, SELECTED BY THE GOVERNOR; AND**

11 **(III) ONE INDIVIDUAL CHOSEN BY THE COMMISSIONER OF**
12 **LABOR AND INDUSTRY.**

13 **(3) THE APPAREL PROCUREMENT BOARD SHALL HAVE THE**
14 **POWER TO:**

15 **(I) RECEIVE COMPLAINTS THAT ANY BIDDER OR**
16 **CONTRACTOR IS NOT IN COMPLIANCE WITH THIS SECTION; AND**

17 **(II) RECOMMEND INVESTIGATION BY AN AUTHORITY**
18 **DESIGNATED BY IT INTO THE MERITS OF ANY COMPLAINT.**

19 **(4) THE APPAREL PROCUREMENT BOARD SHALL BE**
20 **ADMINISTERED BY THE COMMISSIONER OF LABOR AND INDUSTRY IN THE**
21 **DIVISION OF LABOR AND INDUSTRY IN THE DEPARTMENT OF LABOR,**
22 **LICENSING, AND REGULATION.**

23 **(E) IF THE COMMISSIONER OF LABOR AND INDUSTRY DETERMINES**
24 **THAT A BIDDER, VENDOR, OR SUBCONTRACTOR HAS NOT COMPLIED WITH THE**
25 **TERMS OF THIS SECTION, THE COMMISSIONER MAY:**

26 **(1) TERMINATE AN EXISTING APPAREL CONTRACT AT THE**
27 **EARLIEST FEASIBLE DATE; AND**

1 **(2) UNLESS PREEMPTED BY FEDERAL LAW, BAR THE VENDOR OR**
2 **BIDDER FROM RECEIVING PENDING OR SUBSEQUENT APPAREL CONTRACTS.**

3 **(F) (1) EACH APPAREL CONTRACT AND BID APPLICATION SHALL**
4 **CONTAIN A PROVISION DETAILING THE REQUIREMENTS OF THIS SECTION.**

5 **(2) COMPLIANCE WITH THIS SECTION SHALL BE MADE A BINDING**
6 **CONDITION OF EACH APPAREL CONTRACT ENTERED INTO BY A CONTRACTING**
7 **AGENCY.**

8 **(G) (1) A PUBLIC BODY MAY WAIVE REQUIREMENTS OF THIS SECTION**
9 **ON A DETERMINATION THAT THERE IS NO VENDOR AVAILABLE OR ABLE TO**
10 **MEET THE REQUIREMENTS OF THE PROCUREMENT.**

11 **(2) IF A PUBLIC BODY EXERCISES A WAIVER UNDER PARAGRAPH**
12 **(1) OF THIS SUBSECTION, THE PUBLIC BODY SHALL TAKE EVERY REASONABLE**
13 **MEASURE TO CONTRACT WITH A VENDOR THAT IS MOST CLOSELY ABLE TO**
14 **SATISFY THE REQUIREMENTS OF THIS SECTION.**

15 SECTION 2. AND BE IT FURTHER ENACTED, That if any provision of this
16 Act or the application thereof to any person or circumstance is held invalid for any
17 reason in a court of competent jurisdiction, the invalidity does not affect other
18 provisions or any other application of this Act which can be given effect without the
19 invalid provision or application, and for this purpose the provisions of this Act are
20 declared severable.

21 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
22 October 1, 2007.