

NO. 105. AN ACT RELATING TO STATE PURCHASING OF
APPAREL, FOOTWEAR, OR TEXTILES.

(H.338)

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. FINDINGS AND INTENT

(a) The general assembly finds that:

(1) Vermont citizens believe employers should fairly compensate hard work, that the health and safety of working people should be protected, and that no form of unlawful discrimination or abuse should be tolerated.

(2) Vermont citizens are aware that laws and regulations designed to safeguard basic tenets of ethical business practice are disregarded in many workplaces, commonly referred to as “sweatshops.”

(3) State government purchase of goods made under abusive conditions on behalf of the state’s citizens offends Vermont citizens’ sense of justice and decency.

(4) When the state of Vermont contracts with vendors whose suppliers profit by providing substandard wages and working conditions, Vermont’s businesses are put at a competitive disadvantage.

(5) The state of Vermont believes in doing business with vendors who make a good-faith effort to ensure that their suppliers and those at the point of assembly adhere to the principles set forth in this act.

(b) By this act, the general assembly intends that:

(1) In its role as a market participant that procures apparel, footwear, and textiles, the state of Vermont seeks to protect the interests of Vermont citizens and businesses by exercising its state sovereignty to spend Vermont citizens' tax dollars in a manner consistent with their express wishes that the state deal with responsible bidders who seek contracts to supply goods to the state of Vermont, and protect legally compliant Vermont businesses and workers from unfair competition created by downward pressure on prices and conditions attributable to businesses that violate applicable workplace laws.

(2) Seeking to protect these local interests through the least discriminatory means available, the state of Vermont requires that all bidders seeking contracts to supply the state of Vermont with apparel, footwear, and textiles provide certification that their suppliers at the point of assembly comply with workplace laws of the vendor's or supplier's site of assembly and with treaty obligations that are shared by the United States and the country in which the goods are assembled.

Sec. 2. 29 V.S.A. §§ 901–920 are designated as subchapter 1 which is added to read:

Subchapter 1. General Provisions

Sec. 3. 29 V.S.A. chapter 49, subchapter 2 is added to read:

Subchapter 2. State Purchasing of Apparel, Footwear, or Textiles

§ 921. APPLICATION OF SUBCHAPTER; DEFINITIONS

(a) This subchapter applies to competitive bids for sale of apparel,

footwear, or textiles pursuant to subchapter 1 of this chapter.

(b) As used in this subchapter, unless the context otherwise indicates, the following terms shall have the following meanings:

(1) “Commissioner” means the commissioner of buildings and general services.

(2) “Independent monitor” means a nonprofit organization that is neither funded nor controlled, in whole or in part, by businesses that sell or manufacture apparel, footwear, or textiles.

§ 922. BIDS FOR THE SALE OF APPAREL, FOOTWEAR, OR TEXTILES

(a) The commissioner shall require that a bidder for the sale of apparel, footwear, or textiles provide certification from each supplier that the supplier at the point of assembly of the goods:

(1) complies with all applicable wage, health, labor, environmental, and safety laws, legal guarantees of freedom of association, building and fire codes, and laws relating to discrimination in hiring, promotion, and compensation on the basis of race, disability, national origin, gender, sexual orientation, and affiliation with any political, nongovernmental, and civic group except when federal law precludes the state from attaching the procurement conditions provided in this subchapter; and

(2) complies with all human and labor rights treaty obligations that are shared by the United States and the country in which the goods are assembled, including obligations with regard to forced labor, indentured labor, slave labor,

child labor, involuntary prison labor, physical and sexual abuse, and freedom of association.

(b) Prior to the awarding of a contract, a bidder for the sale of apparel, footwear, or textiles shall submit a list of the names and addresses of suppliers at the point of assembly of goods subject to the bid process.

(c) If, after complying with the filing requirements of this section, a bidder is awarded a contract, that contractor shall, during the term of the contract, promptly inform the commissioner of any change in the information furnished to the commissioner pursuant to this section.

§ 923. EXCEPTION

The commissioner may accept a bid from and award a contract to a supplier who has not met the requirements provided in section 922 of this title if, after reasonable investigation by the commissioner, it appears that the required unit or item of supply or brand of that unit or item is procurable by the state from only that supplier or under other extraordinary circumstances. The approval of an exception pursuant to this section shall be documented in writing, signed by the commissioner, and retained as part of the contract file.

§ 924. REPORT

By January 15 of each year, the commissioner shall submit a report to the house and senate committees on government operations concerning the degree of voluntary compliance with this subchapter; the number of vendors who agreed to and the number that declined to comply with the provisions of this subchapter; the status of the commissioner's efforts to coordinate with other states with those jurisdictions' efforts to develop an effective strategy to monitor vendor compliance with the requirements of this subchapter or with similar requirements of those jurisdictions; a description of any exceptions approved pursuant to section 923 of this title; and any other information relevant to this subchapter.

§ 925. COMPLAINTS OF NONCOMPLIANCE WITH SUBCHAPTER;INVESTIGATIONS OF COMPLAINTS

(a) The commissioner shall initiate an investigation to determine whether a violation of this subchapter has occurred if:

(1) The commissioner has knowledge that a contractor or a supplier at the point of assembly of goods subject to a contract is not in compliance with this subchapter.

(2) The contractor informs the commissioner that the contractor or a supplier at the point of assembly of goods subject to a contract is not in compliance with this subchapter.

(3) A worker for a contractor or for a supplier at the point of assembly of goods subject to a contract files a written complaint directly with the commissioner stating that the contractor or supplier, to the best of the worker's knowledge, is not in compliance with this subchapter.

(4) A third party established and based in the United States, on behalf of or on the basis of information from a worker or workers, files directly with the commissioner a written complaint, signed and dated under oath before an official authorized by applicable law to administer oaths, stating that, to the best of the third party's knowledge, a contractor or a supplier at the point of assembly of goods subject to a contract is not in compliance with this subchapter.

(5) A third party established and based outside the United States, on behalf of or on the basis of information from a worker or workers, files directly with the commissioner a signed and dated written complaint stating that, to the best of the third party's knowledge, a contractor or a supplier at the point of assembly of goods subject to a contract is not in compliance with this subchapter.

(b) After receiving a complaint alleging noncompliance with this subchapter, the commissioner shall contact in a timely manner, in writing and by certified letter, the contractor that is the subject of the complaint or whose supplier is the subject of the complaint.

§ 926. DETERMINATIONS OF NONCOMPLIANCE WITHSUBCHAPTER

(a) In making a determination of whether a violation of this subchapter has occurred, the commissioner may take into account any factors, information, sources of information, and materials determined reliable and relevant by the commissioner, as determined on a case-by-case basis. The commissioner has specific authority and discretion to employ an independent monitor to investigate a complaint.

(b) The determination of whether a party subject to a complaint is in compliance with this subchapter is solely that of the commissioner.

(c) After rendering a determination under this section, the commissioner promptly shall inform the complainant and contractor in writing.

§ 927. CONSEQUENCES OF NONCOMPLIANCE WITH SUBCHAPTER

If, in the opinion of the commissioner, a contractor that has been determined to be not in compliance with this subchapter does not make good-faith efforts to change its practices or use its bargaining position with an offending supplier to change the supplier's practices, the commissioner may take appropriate remedial action, including barring the contractor from bidding on future state contracts or terminating the state's contract with the contractor. Reference to the authority given in this section shall be specifically referenced in state contracts with contractors that are subject to this subchapter.

§ 928. COORDINATION WITH OTHER JURISDICTIONS

The commissioner shall coordinate with other jurisdictions of the United States of America with those jurisdictions' efforts to develop an effective strategy to monitor vendor compliance with the requirements of this subchapter or similar requirements of those jurisdictions.

Sec. 4. EFFECTIVE DATE

This act shall take effect upon passage.

Approved: April 28, 2008