

S7791 VELELLA Same as A 11831
TITLE....Enacts the New York state apparel workers fair labor conditions and
procurement act

STATE OF NEW YORK

7791

IN SENATE

June 20, 2002

Introduced by Sen. VELELLA -- read twice and ordered printed, and when
printed to be committed to the Committee on Rules

AN ACT to amend the labor law and the state finance law, in relation to
enacting the New York state apparel workers fair labor conditions and
procurement act and to amend the labor law, the state finance law and
the education law, in relation to authorizing SUNY and CUNY, as state
agencies, to consider certain labor standards and working conditions
when purchasing apparel

The People of the State of New York, represented in Senate and Assem-
bly, do enact as follows:

- 1 Section 1. Short title. This act shall be known and may be cited as
- 2 the "New York state apparel workers fair labor conditions and procure-
- 3 ment act".
- 4 § 2. Legislative intent. It is the sense of this legislature that the
- 5 state of New York, as a major purchaser of goods and services, must be
- 6 cognizant of fair labor conditions in its actions as a market partic-
- 7 ipant. Many consumers have legitimately revised their own purchase deci-
- 8 sions in the face of revelations about sweatshop labor and conditions.
- 9 The city of New York has recently enacted legislation to ensure that the
- 10 labor standards utilized in the manufacture of its apparel are decent

11 and just. It is therefore incumbent that the state exercise appropriate
12 awareness regarding the working conditions in which its extensive
13 apparel purchases are made. The uniformed employees of our state often
14 embody, and indeed represent, the high ideals which have made New
York

15 great. It is the intent and purpose of this legislation to ensure that
16 through its market participation, the state continues to uplift economic
17 standards of the workforce.

18 § 3. Section 347 of the labor law, as added by chapter 764 of the laws
19 of 1986, is amended to read as follows:

20 § 347. Report. Two years after the date on which this article takes
21 effect, and on or before the thirty-first of January of each year there-
22 after, the special task force shall issue a report on its activities and
23 on the apparel industry in New York state. This report shall be deliv-
24 ered to the labor committees and ways and means and finance
committees

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[] is old law to be omitted.

LBD16585-02-2

S. 7791

2

1 of the legislature. The special task force shall report on a regular
2 basis to the apparel industry advisory committee of the department, or
3 its successor.

4 § 4. The labor law is amended by adding a new section 349 to read as
5 follows:

6 § 349. Special September eleventh bidders registry. 1. The department
7 is authorized to promulgate the necessary rules and regulations to
8 establish a registry of apparel manufacturers and contractors adversely
9 impacted by the September eleventh, two thousand one attack on the
10 United States of America. For purposes of this section, "the September
11 eleventh, two thousand one attack on the United States of America" shall
12 consist of the attack on the World Trade Center, the attack on the
13 Pentagon and the hijackings and crashes of United Airlines flights 93
14 and 175 and American Airlines flights 11 and 77.

15 2. In order to be registered, the manufacturer or contractor shall
16 substantiate that:

17 a. such manufacturer or contractor was registered with the department
18 pursuant to section three hundred forty-one of this article, as of
19 September eleventh, two thousand, and had been continuously doing busi-
20 ness until and including September eleventh, two thousand one;

21 b. such manufacturer or contractor has demonstrated, through cooper-
22 ative labor management efforts, a commitment to improving the economic
23 well-being of their employees; and

24 c. neither the business entity, nor any owner or partner of such enti-

25 ty, has in the previous five years been found in violation of the work-
26 ers' compensation law or any other state or federal labor law, rule or
27 regulation.

28 3. For purposes of this section, the term "adversely impacted" shall
29 mean that a manufacturer or contractor was forced to shut production,
30 lay off employees or otherwise diminish their economic worthiness
31 because of their location, the loss of access to employees, production
32 equipment, utilities or other factors which occurred in the aftermath of
33 the September eleventh, two thousand one attack on the United States of
34 America.

35 4. For purposes of procurements of apparel and textiles, the depart-
36 ment shall make the registry available to any state agency, department,
37 board, bureau, commission, division, or any public benefit corporation,
38 public authority, a majority of whose members are appointed by the
39 governor, and if requested, to political subdivisions.

40 5. Manufacturers and contractors may be removed from the registry in
41 the discretion of and as determined by the department. Any manufacturer
42 or contractor who submits false or misleading information in order to
43 qualify for placement on the list under this section shall be punished
44 by a fine of not more than five hundred dollars or by imprisonment of
45 not more than thirty days, or by both such fine and imprisonment.

46 § 5. Subdivision 1 of section 162 of the state finance law, as added
47 by chapter 83 of the laws of 1995, is amended to read as follows:

48 1. Purpose. To advance special social and economic goals, selected
49 providers shall have preferred source status for the purposes of
50 procurement in accordance with the provisions of this section. Procure-
51 ment from these providers, except those defined in paragraph f of subdi-
52 vision two of this section, shall be exempted from the competitive
53 procurement provisions of section one hundred sixty-three of this arti-
54 cle and other competitive procurement statutes. Such exemption shall
55 apply to commodities produced, manufactured or assembled, including
56 those repackaged to meet the form, function and utility required by

S. 7791

3

1 state agencies, in New York state and, where so designated, services
2 provided by those sources in accordance with this section.

3 § 6. Subdivision 2 of section 162 of the state finance law is amended
4 by adding a new paragraph f to read as follows:

5 f. Commodities provided by any qualified apparel manufacturer and
6 contractor on the special September eleventh bidders registry, as added
7 by section three hundred forty-nine of the labor law, approved for such
8 purposes by the commissioner of labor.

9 § 7. Subdivision 3 of section 162 of the state finance law is amended
10 by adding a new paragraph d to read as follows:

11 d. Paragraphs a, b and c of this subdivision are superseded with
12 respect to commodities provided by any qualified apparel manufacturer

13 and contractor on the special September eleventh bidders registry, as
14 added by section three hundred forty-nine of the labor law, or approved
15 for such purposes by the commissioner of labor. The commissioner of
16 labor shall periodically provide the commissioner of general services
17 with the special September eleventh bidders registry, as added by
18 section three hundred forty-nine of the labor law, of qualified apparel
19 manufacturers and contractors. The commissioner of labor shall also make
20 the registry available upon request to other state agencies, public
21 benefit corporations, public authorities, and, if requested, to poli-
22 tical subdivisions.

23 § 8. Section 162 of the state finance law is amended by adding a new
24 subdivision 4-a to read as follows:

25 4-a. Priority in purchasing requirements for apparel or textiles. a.

26 Definitions. As used in this section, the following terms shall have the
27 following meanings:

28 (i) "Apparel" or "textiles" shall mean all articles of clothing or
29 goods produced by weaving, knitting, or felting or any similar
30 production processes for such articles of clothing and shall include all
31 goods produced by the apparel industry as defined by subdivision (c) of
32 section three hundred forty of the labor law.

33 (ii) "State" shall mean any New York state agency, department, board,
34 bureau, commission, division, or any public benefit corporation or
35 public authority a majority of whose members are appointed by the gover-
36 nor.

37 b. Notwithstanding anything to the contrary, political subdivisions
38 may adopt and apply the priority established herein by specifically
39 including the provisions of this subdivision in their bid specifica-
40 tions.

41 c. Conditions for participation in certain state contracts. In the
42 event the state, as defined in subparagraph (ii) of paragraph a of this
43 subdivision, seeks to purchase apparel or textiles pursuant to a compet-
44 itive bid pursuant to section one hundred sixty-three of this article or
45 other applicable competitive procurement statutes, the following addi-
46 tional conditions shall apply:

47 (i) the bid shall include a statement that a state agency shall not
48 enter into a contract to purchase or obtain for any purpose any apparel
49 from a bidder unable or unwilling to provide documentation as part of
50 its bid:

51 (A) attesting that such apparel was manufactured in compliance with
52 all applicable labor and occupational safety laws, including, but not
53 limited to, child labor laws, wage and hour laws and workplace safety
54 laws;

55 (B) stating, if known, the name and address of each subcontractor to
56 be utilized; and

1 (C) stating, if known, all manufacturing plants utilized by the bidder
2 or subcontractor.

3 (ii) manufacturers and contractors identified on the special September
4 eleventh bidders registry, as added by section three hundred forty-nine
5 of the labor law, shall be a preferred source for purposes of a compet-
6 itive bid and the associated contract award for apparel or textile
7 procurements where the price bid by such participating qualified regis-
8 trant bidder is not greater than fifteen percent more than the lowest
9 price bid by an otherwise responsive and responsible bidder. Where there
10 is more than one participating qualified registrant bidder, the state
11 shall make the contract award based upon the lowest price bid among such
12 bidders.

13 (iii) where no qualified bidders under subparagraph (ii) of this para-
14 graph participate in the competitive bid for the specified apparel or
15 textiles the state shall award the contract to the otherwise lowest
16 responsive and responsible bidder pursuant to section one hundred
17 sixty-three of this article or other applicable competitive procurement
18 statutes.

19 d. Waiver. The provisions of this section may be waived by the head of
20 any state agency, department, board, bureau, commission, division, or
21 any public benefit corporation or public authority a majority of whose
22 members are appointed by the governor where it is determined in writing
23 and included in the procurement record that it is in the best interests
24 of the state to do so.

25 § 9. The labor law is amended by adding a new section 213-a to read as
26 follows:

27 § 213-a. Special provisions regarding the purchasing of apparel by the
28 state university of New York and the city university of New York.

29 1. Notwithstanding any other provision of law, the various units of
30 the state university of New York, the city university of New York and
31 community colleges shall have the authority to:

32 a. Determine that a bidder on a contract for the purchase of apparel
33 is not a responsible bidder as defined in section one hundred sixty-
34 three of the state finance law based upon either of the following
35 considerations:

36 (i) the labor standards applicable to the manufacture of the apparel,
37 including but not limited to employee compensation, working conditions,
38 employee rights to form unions, and the use of child labor, or
39 (ii) the bidder's failure to provide information sufficient for the
40 state agency or corporation to determine the labor conditions applicable
41 to the manufacture of the apparel.

42 b. Include in the internal policies and procedures governing procure-
43 ment of apparel, where such procurement is not further required to be
44 made pursuant to the competitive bidding requirements of section one
45 hundred sixty-three of the state finance law, a prohibition against the
46 purchase of apparel from any vendor based upon either or both of the

47 following considerations:

48 (i) the labor standards applicable to the manufacture of the apparel,
49 including but not limited to employee compensation, working conditions,
50 employee rights to form unions, and the use of child labor, or

51 (ii) the bidder's failure to provide sufficient information for said
52 state agencies to determine the labor standards applicable to the manu-
53 facture of the apparel.

54 2. For the purposes of this section, "apparel" shall mean goods, such
55 as, but not limited to, sports uniforms, including gym uniforms,
56 required school uniforms, shoes, including, but not limited to, athletic

S. 7791

5

1 shoes or sneakers, sweatshirts, caps, hats, and other clothing, whether
2 or not imprinted with a school's name or logo, academic regalia, lab
3 coats and staff uniforms.

4 § 10. Section 165 of the state finance law is amended by adding a new
5 subdivision 7 to read as follows:

6 7. Special provisions regarding the purchasing of apparel by the state
7 university of New York and the city university of New York.

8 a. Notwithstanding any other provision of law, the various units of
9 the state university of New York, the city university of New York and
10 community colleges shall have authority to:

11 (i) Determine that a bidder on a contract for the purchase of apparel
12 is not a responsible bidder as defined in section one hundred sixty-
13 three of this article based upon either of the following considerations:

14 (A) the labor standards applicable to the manufacture of the apparel,
15 including but not limited to employee compensation, working conditions,
16 employee rights to form unions, and the use of child labor, or

17 (B) the bidder's failure to provide information sufficient for the
18 state agency or corporation to determine the labor conditions applicable
19 to the manufacture of the apparel.

20 (ii) Include in the internal policies and procedures governing
21 procurement of apparel, where such procurement is not further required
22 to be made pursuant to the competitive bidding requirements of section
23 one hundred sixty-three of this article, a prohibition against the
24 purchase of apparel from any vendor based upon either or both of the
25 following considerations:

26 (A) the labor standards applicable to the manufacture of the apparel,
27 including but not limited to employee compensation, working conditions,
28 employee rights to form unions, and the use of child labor, or

29 (B) the bidder's failure to provide sufficient information for said
30 state agencies to determine the labor standards applicable to the manu-
31 facture of the apparel.

32 b. For the purposes of this subdivision, "apparel" shall mean goods,
33 such as, but not limited to, sports uniforms, including gym uniforms,
34 required school uniforms, shoes, including, but not limited to, athletic

35 shoes or sneakers, sweatshirts, caps, hats, and other clothing, whether
36 or not imprinted with a school's name or logo, academic regalia, lab
37 coats and staff uniforms.

38 § 11. Section 6302 of the education law is amended by adding a new
39 subdivision 6 to read as follows:

40 6. a. Notwithstanding any other provision of law, community colleges
41 established under this article shall have the authority to:

42 (i) Determine that the bidder on a contract for the purchase of
43 apparel is not an acceptable bidder based on either of the following
44 considerations:

45 (A) the labor standards applicable to the manufacture of the apparel,
46 including but not limited to employee compensation, working conditions,
47 employee rights to form unions, and the use of child labor, or

48 (B) the bidder's failure to provide information sufficient for the
49 state agency or corporation to determine the labor conditions applicable
50 to the manufacture of the apparel.

51 (ii) Include in the internal policies and procedures governing
52 procurement of apparel a prohibition against the purchase of apparel
53 from any vendor based upon either or both of the following consider-
54 ations:

S. 7791

6

1 (A) the labor standards applicable to the manufacture of the apparel,
2 including but not limited to employee compensation, working conditions,
3 employee rights to form unions, and the use of child labor; or

4 (B) the bidder's failure to provide sufficient information for said
5 state agencies to determine the labor standards applicable to the manu-
6 facture of the apparel.

7 b. For the purposes of this subdivision, "apparel" shall mean goods,
8 such as, but not limited to, sports uniforms, including gym uniforms,
9 required school uniforms, shoes, including, but not limited to, athletic
10 shoes or sneakers, sweatshirts, caps, hats, and other clothing, whether
11 or not imprinted with a school's name or logo, academic regalia, lab
12 coats and staff uniforms.

13 § 12. This act shall take effect on September 1, 2002 and shall
14 respectively apply to bids issued after such date; provided, however,
15 that effective immediately, the addition, amendment and/or repeal of any
16 rule or regulation necessary for the implementation of this act on its
17 effective date are authorized and directed to be made and completed on
18 or before such effective date; provided, however, that the amendments to
19 section 162 of the state finance law, made by sections five through
20 eight of this act, shall not affect the repeal of such sections and
21 shall be deemed repealed therewith.
