
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1800 Session of
2013

INTRODUCED BY GOODMAN, EVANKOVICH, GALLOWAY, BISHOP, BIZZARRO, BOBACK, K. BOYLE, BRADFORD, BRIGGS, BROWNLEE, CALTAGIRONE, CARROLL, COHEN, CONKLIN, D. COSTA, P. COSTA, M. DALEY, P. DALEY, DEAN, DEASY, DELISSIO, DeLUCA, DENLINGER, DERMODY, DUNBAR, EVERETT, FABRIZIO, FARINA, FRANKEL, FREEMAN, GAINNEY, GIBBONS, GINGRICH, HAGGERTY, HALUSKA, HANNA, HARHAI, HARKINS, JAMES, F. KELLER, W. KELLER, KIM, KNOWLES, KORTZ, KOTIK, KULA, LONGIETTI, MACKENZIE, MAHONEY, MARKOSEK, MARSHALL, MATZIE, MCCARTER, McGEEHAN, MCNEILL, R. MILLER, MIRABITO, MOLCHANY, MULLERY, MUNDY, MURT, NEUMAN, O'BRIEN, O'NEILL, PAINTER, PARKER, PASHINSKI, PAYNE, PYLE, QUINN, RAVENSTAHL, READSHAW, ROSS, ROZZI, SABATINA, SACCONI, SAINATO, SANTARSIERO, SAYLOR, SCHLOSSBERG, SCHREIBER, SIMMONS, SNYDER, STEPHENS, STURLA, SWANGER, TALLMAN, TOBASH, WATERS, WHITE AND YOUNGBLOOD, DECEMBER 9, 2013

REFERRED TO COMMITTEE ON COMMERCE, DECEMBER 9, 2013

AN ACT

1 Providing for Made in PA® trademark, for licensee qualification,
2 for duties and authority of department, for trademark license
3 agreement, application and licensure process and for costs;
4 establishing the Made in PA® Trademark Licensing Fund; and
5 providing for civil penalties, for injunctive relief and for
6 rules and regulations.

7 The General Assembly of the Commonwealth of Pennsylvania
8 hereby enacts as follows:

9 Section 1. Short title.

10 This act shall be known and may be cited as the Made in PA®
11 Act.

12 Section 2. Definitions.

13 The following words and phrases when used in this act shall

1 have the meanings given to them in this section unless the
2 context clearly indicates otherwise:

3 "Department." The Department of Community and Economic
4 Development of the Commonwealth.

5 "Fund." The Made in PA® Trademark Licensing Fund established
6 in section 8.

7 "Licensee." A qualified entity that is subject to a current
8 Made in PA® trademark license agreement with the department.

9 "Made in PA® trademark." One or more trademarks that:

10 (1) consist of the phrase "Made in PA" or "Made in
11 Pennsylvania"; and

12 (2) may include specific graphic designs or artwork as
13 part of the trademark registration.

14 "Pennsylvania-made commodity." Tangible products produced or
15 manufactured in this Commonwealth by a business and that are
16 transported or intended to be transported in commerce.

17 "Person." An individual, partnership, corporation,
18 association or another legal entity.

19 "Qualified entity." A person that produces, manufactures,
20 sells, offers for sale, markets or promotes Pennsylvania-made
21 commodities.

22 Section 3. Made in PA® trademark.

23 The department shall take the actions necessary and
24 appropriate to acquire, create, establish, register, maintain,
25 license, promote and protect a Made in PA® trademark for use on
26 or in connection with the sale, marketing or promotion of a
27 Pennsylvania-made commodity.

28 Section 4. Licensee qualification.

29 To become a licensee a qualified entity must be:

30 (1) a person that produces or manufactures a

1 Pennsylvania-made commodity in whole or in part at a facility
2 located within this Commonwealth;

3 (2) a person that promotes or markets a Pennsylvania-
4 made commodity from a person that satisfies the provisions of
5 paragraph (1); or

6 (3) a person approved by the department to use and
7 promote the use of the Made in PA® trademark to
8 constituencies in furthering the purposes of this act.

9 Section 5. Duties and authority of department.

10 (a) Authority to enter into trademark license agreements.--
11 The department:

12 (1) May enter into a trademark license agreement with a
13 qualified entity.

14 (2) Shall establish the terms and conditions under which
15 a person may be licensed to use the Made in PA® trademark.
16 Terms and conditions must require a licensee to produce,
17 process, promote or market a Pennsylvania-made commodity in a
18 manner acceptable to the department that protects the
19 reputation of the Made in PA® trademark.

20 (3) May periodically review a licensing agreement to
21 determine if the terms are being met.

22 (b) Cooperative activities.--The department may engage in
23 cooperative activities to implement and advance the purposes of
24 this act.

25 (c) Public information Internet website.--

26 (1) The department shall compile a list of the qualified
27 entities who become licensees under this act. The list shall
28 be made available to the public on the department's Internet
29 website and for other public distribution as the department
30 approves.

1 (2) The list shall be updated every three months and
2 include:

3 (i) the Pennsylvania-made commodity produced,
4 manufactured or promoted by the licensee;

5 (ii) contact information for the licensee that may
6 include an Internet website link; and

7 (iii) one or more locations where the Pennsylvania-
8 made commodity may be purchased.

9 Section 6. Trademark license agreement, application and
10 licensure process.

11 (a) General rules.--

12 (1) A qualified entity may apply to be licensed to use
13 the Made in PA® trademark.

14 (2) An application must:

15 (i) be on a form prepared by the department; and

16 (ii) require identification information and other
17 information the department deems necessary to determine
18 if an applicant is a qualified entity.

19 (3) The application form shall be provided by the
20 department upon request.

21 (4) The department may determine whether a person is a
22 qualified entity for purposes of this act.

23 (5) If the department determines that an applicant is a
24 qualified entity, it shall offer that qualified entity a
25 trademark license agreement.

26 (6) A trademark license agreement under this act is
27 effective for one year from the date upon which an agreement
28 is executed and may be renewed. An agreement must contain
29 provisions allowing for the termination of the license
30 agreement by the department or a licensee upon 60 days'

1 advance written notice to the other party.

2 (b) Preexisting trademark license agreements.--A trademark
3 license agreement that is in effect prior to the effective date
4 of this section and authorizes the use of a Made in PA®
5 trademark remains in effect until it is terminated or until the
6 end of the current contract year, whichever occurs first.

7 Section 7. Costs.

8 Reimbursement of costs are as follows:

9 (1) The department may charge a licensee for costs
10 incurred by the department in connection with the licensee's
11 participation in an activity, trade show, exhibition or other
12 promotional event conducted or facilitated by the department.
13 A charge must reasonably reflect the costs incurred by the
14 department in facilitating the licensee's participation and
15 may include the costs as proportional shares of event
16 registration fees, equipment rental fees, display area rental
17 fees and related costs.

18 (2) The department may charge a licensee for costs of
19 Made in PA® promotional materials provided by the department
20 at the request of the licensee.

21 Section 8. Made in PA® Trademark Licensing Fund.

22 (a) Establishment.--There is established in the State
23 Treasury a special fund to be known as the Made in PA® Trademark
24 Licensing Fund. The fund shall be an interest-bearing restricted
25 revenue account. The following money shall be deposited into the
26 fund:

27 (1) Money as is appropriated, given, granted or donated
28 for the purpose established under this act by the Federal
29 Government, the Commonwealth or another government or private
30 agency or person.

1 (2) Funds derived from the costs established under
2 section 7.

3 (3) Funds derived from civil penalties collected by the
4 department under section 9.

5 (b) Appropriation.--Money in the fund is appropriated on a
6 continuing basis to the department for the purpose of
7 administering this act. The interest and earnings received from
8 investment or deposit of the money in the fund shall be paid
9 into the account for the purpose authorized by this section.
10 Unexpended money and interest or earnings on the money in the
11 fund may not be transferred or revert to the General Fund, but
12 shall remain in the account to be used by the department for the
13 purpose specified under this section.

14 (c) Use.--Money deposited in the fund shall be used to:

15 (1) promote the licensure and use of the Made in PA®
16 trademark with respect to Pennsylvania-made commodities;

17 (2) promote the Made in PA® trademark as an
18 identification of origin and quality;

19 (3) promote Pennsylvania-made commodities with respect
20 to which the Made in PA® trademark is licensed;

21 (4) pay costs associated with monitoring the use of the
22 Made in PA® trademark to prohibit the unlawful or
23 unauthorized use of the trademark and enforcing rights of the
24 trademark; and

25 (5) otherwise fund the department's costs in
26 administering and enforcing this act.

27 Section 9. Civil penalties.

28 In addition to any other remedy available at law or in equity
29 for a violation of a provision of this act or a trademark
30 license agreement established under this act, the department may

1 assess a civil penalty upon the person responsible for the
2 violation. The civil penalty assessed may not exceed \$10,000 and
3 is payable to the Commonwealth and collectible in a manner
4 provided under law for the collection of debt.

5 Section 10. Injunctive relief.

6 In addition to the other remedies provided under this act,
7 the Attorney General, at the request of the department, may
8 initiate, in Commonwealth Court or the court of common pleas of
9 the county in which the defendant resides or has his place of
10 business, an action in equity for an injunction to restrain
11 violations of this act or a trademark license agreement. In the
12 proceeding, the court shall, upon motion of the Commonwealth,
13 issue a preliminary injunction if it finds the defendant is
14 engaging in unlawful conduct under this act or is engaging in
15 conduct that is causing immediate or irreparable harm to the
16 public. The Commonwealth may not be required to furnish bond or
17 other security in connection with the proceedings. In addition
18 to an injunction, the court, in equity proceedings, may levy
19 civil penalties as provided under section 9.

20 Section 11. Rules and regulations.

21 The department shall promulgate rules and regulations
22 necessary to promote the efficient, uniform and Statewide
23 administration of this act. For two years from the effective
24 date of this section, the department may promulgate, adopt and
25 use guidelines to implement the provisions of this act. The
26 guidelines must be published in the Pennsylvania Bulletin but
27 not be subject to review under section 205 of the act of July
28 31, 1968 (P.L.769, No.240), referred to as the Commonwealth
29 Documents Law, sections 204(b) and 301(10) of the act of October
30 15, 1980 (P.L.950, No.164), known as the Commonwealth Attorneys

1 Act, or the act of June 25, 1982 (P.L.633, No.181), known as the
2 Regulatory Review Act. The guidelines expire no later than
3 December 31, 2015, and must be replaced by regulations that have
4 been promulgated, adopted and published as provided under law.

5 Section 12. Effective date.

6 This act shall take effect in 60 days.