

# STATE OF NEW YORK

5186

2017-2018 Regular Sessions

## IN SENATE

March 10, 2017

Introduced by Sen. CARLUCCI -- read twice and ordered printed, and when printed to be committed to the Committee on Consumer Protection

AN ACT to amend the general business law and the New York state urban development corporation act, in relation to establishing the "Made by New Yorkers" program

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

1 Section 1. The general business law is amended by adding a new article  
2 29-JJ to read as follows:

### ARTICLE 29-JJ

#### MADE BY NEW YORKERS

#### Section 613. Definitions.

6 613-a. "Made by New Yorkers"; labeling.

7 613-b. Requirements.

8 613-c. Issuance of the label.

9 613-d. Application for registration.

10 613-e. Filing of applications.

11 613-f. Fees.

12 613-g. Administration and enforcement.

13 613-h. Suspension and revocation of registrations.

14 613-i. Renewal.

15 613-j. Reporting.

16 613-k. Rules and regulations.

17 § 613. Definitions. As used in this article, the following terms shall  
18 have the following meanings:

19 1. "Applicant" shall mean the person filing an application, or a  
20 member of the firm or an officer of the corporation or association  
21 applying for registration for use of the "Made by New Yorkers" label.

22 2. "Department" shall mean the department of state.

23 3. "Products or goods" shall include any recognizable goods, merchan-  
24 dise, wares, or tangible or intangible products of any kind.

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

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1 4. "Secretary" shall mean the secretary of state.

2 § 613-a. "Made by New Yorkers"; labeling. The department is authorized  
3 to establish and implement a made by New Yorkers labeling program for  
4 all products or goods made in accordance with the requirements of this  
5 article. The department may consult with the department of economic  
6 development in the implementation of this article.

7 § 613-b. Requirements. 1. Any products or goods made in this state in  
8 accordance to this article shall be eligible to be labeled with a "Made  
9 by New Yorkers" label if:

10 a. the product or good is substantially made by a business located in  
11 the state; and

12 b. the finished product or good could lawfully use a "Made in U.S.A."  
13 or "Made in America" label.

14 2. For purposes of this section, "substantially made" means completing  
15 an act that adds at least fifty-one percent of a final product's whole-  
16 sale value by manufacture, assembly or production to create a final  
17 recognizable product. "Substantially made" does not include the act of  
18 packaging the product.

19 § 613-c. Issuance of the label. In accordance with the provisions of  
20 this article, the department shall consult with the department of  
21 economic development in the design and issuance of the "Made by New  
22 Yorkers" label.

23 § 613-d. Application for registration. The department shall require  
24 each business that chooses to participate in the program to register  
25 with the department for use of the "Made by New Yorkers" label. An  
26 applicant for registration for use of the label shall submit an applica-  
27 tion to the secretary in such form as shall be prescribed by the secre-  
28 tary. An application for registration for use of the label shall  
29 include:

30 1. the name and business address of the person applying for such  
31 registration;

32 2. a description of each product or good being sold in connection with  
33 the label; and

34 3. a statement by the applicant that their products or goods are made  
35 in accordance with this article.

36 The application shall be signed and verified by oath, affirmation or  
37 declaration subject to the penalties of perjury by the applicant.

38 § 613-e. Filing of applications. 1. Upon the filing of an application  
39 for registration for use of the label, the secretary shall examine the  
40 application for conformity with this article.

41 2. The applicant shall provide any additional pertinent information  
42 requested by the secretary.

43 3. The department shall, before making a final determination to deny  
44 a business an application for registration for use of the "Made by New  
45 Yorkers" label, notify the applicant in writing of the reasons for such  
46 denial and shall afford the applicant an opportunity to be heard in  
47 person or by counsel prior to the denial of the application. Such  
48 notification shall be delivered or mailed to the applicant. If a hear-  
49 ing is requested, such hearing shall be held at such time and place as  
50 the secretary shall prescribe. If the applicant fails to make a written  
51 request for a hearing within thirty days after receipt of such notifica-  
52 tion, then the notification shall become the final determination of the  
53 secretary. If, after hearing, the registration is denied, written  
54 notice of such denial shall be delivered or mailed to the applicant.

1     § 613-f. Fees. The application for registration or renewal shall be  
2 accompanied by a filing fee of one hundred dollars payable to the secre-  
3 tary.

4     § 613-g. Administration and enforcement. The secretary shall have the  
5 power to enforce the provisions of this article, and upon complaint of  
6 any person, or on his or her own initiative, to investigate any  
7 violation thereof or to investigate a business if in the opinion of the  
8 secretary such investigation is warranted. Each such applicant or regis-  
9 tered business shall be obliged, on request of the secretary, to supply  
10 such information, books, papers or records as may be required concerning  
11 his, her, their or its business. Failure to comply with a lawful request  
12 of the secretary shall be a ground for denying an application for regis-  
13 tration, or for revoking, suspending or denial of renewal of a registra-  
14 tion for use of the label under this article.

15     § 613-h. Suspension and revocation of registrations. The secretary  
16 shall have the power to revoke or suspend any registration or deny any  
17 registration upon proof:

18     1. that the applicant or registrant has violated any of the provisions  
19 of this article or the rules and regulations promulgated pursuant there-  
20 to;

21     2. that the applicant or registrant has practiced fraud, deceit or  
22 misrepresentation; or

23     3. that the applicant or registrant has made a materially false state-  
24 ment in their application for registration.

25     § 613-i. Renewal. The registration for use of the label shall be  
26 effective for a term of three years from the date of registration and,  
27 upon application filed within six months prior to the expiration of such  
28 term, in a manner complying with the requirements of the secretary, the  
29 registration may be renewed for a like term from the end of the expiring  
30 term. The department shall require between the time of registration and  
31 renewal that the registrant submit a sworn statement on an annual basis  
32 that their products or goods are made in accordance with this article.

33     § 613-j. Reporting. The department shall submit an annual report  
34 regarding its expenditures, to the governor, temporary president of the  
35 senate, speaker of the assembly and appropriate committees of the legis-  
36 lature.

37     § 613-k. Rules and regulations. The department shall promulgate such  
38 rules and regulations as shall be necessary to implement the provisions  
39 of this article.

40     § 2. Section 1 of chapter 174 of the laws of 1968, constituting the  
41 New York state urban development corporation act, is amended by adding a  
42 new section 16-aa to read as follows:

43     § 16-aa. Made by New Yorkers fund. 1. The Made by New Yorkers fund is  
44 hereby created. The purpose of the Made by New Yorkers fund is to make  
45 grants to eligible applicants, to support businesses in their growth and  
46 expansion efforts, and to encourage the growth of New York businesses  
47 and products both within and outside the state.

48     2. The corporation is authorized, within available appropriations, to  
49 award grants of no less than fifty thousand dollars and up to one  
50 hundred fifty thousand dollars to established small or medium sized  
51 businesses, for the purpose of encouraging the growth and expansion  
52 efforts of small or medium sized businesses. Such grants shall be  
53 awarded on a competitive basis.

54     3. For the purposes of this section:

55     (a) "expansion" shall include growth of a business' operation within  
56 the state or expansion of a business' sales inside or outside the state.

1 (b) "small or medium sized business" shall mean a business which  
2 employs five hundred or fewer employees within the state on a full-time  
3 basis.

4 4. Grants awarded by the corporation pursuant to this section shall be  
5 subject to the following:

6 (a) grants shall not be less than fifty thousand dollars per year and  
7 shall not exceed one hundred fifty thousand dollars per year; and

8 (b) the corporation shall enter into no more than one grant per year  
9 per applicant under this subdivision.

10 5. Grants shall be awarded for projects dedicated to growth and expan-  
11 sion efforts taken by a business. Growth and expansion efforts shall  
12 include, but not be limited to, projects that:

13 (a) assist established businesses in their growth through market  
14 diversification and expansion;

15 (b) increase a business' adoption of new technologies; or

16 (c) increase a business' capacity to participate in national and  
17 international markets.

18 6. The corporation shall establish a competitive process for the eval-  
19 uation of applicants for the Made by New Yorkers fund. When awarding  
20 funds pursuant to this section, the corporation shall ensure that appli-  
21 cants meet the criteria and requirements determined by the corporation  
22 pursuant to this section.

23 7. Recipients shall be required to report the status of funds received  
24 pursuant to this section to the corporation on a biannual basis until  
25 such project is completed. Failure to comply with reporting criteria, or  
26 any other criteria set forth by the corporation, may result in suspen-  
27 sion of all future payments.

28 8. The corporation shall:

29 (a) monitor the performance of each recipient of a grant under the  
30 provisions of this section to ensure monies are used only for expenses  
31 related to the approved project; and

32 (b) on or before April first, two thousand eighteen and annually ther-  
33 after, submit to the governor, the temporary president of the senate,  
34 the speaker of the assembly, and the chairpersons of the senate finance  
35 committee and the assembly ways and means committee a report on the  
36 investments and accomplishments of the Made by New Yorkers fund. Such  
37 report shall include for each grant awarded, the name and location of  
38 the recipient, the amount awarded, a description of the expansion  
39 project, the number of jobs created or retained through the grant fund  
40 monies, a description of any funds that were not disbursed, and such  
41 other information as the corporation may deem appropriate.

42 § 3. The New York state urban development corporation is hereby  
43 authorized to promulgate such rules and regulations, in accordance with  
44 the state administrative procedure act, as are necessary to fulfill the  
45 purposes of section two of this act.

46 § 4. This act shall take effect immediately, except that section one  
47 of this act shall take effect on the one hundred eightieth day after it  
48 shall have become a law; provided, however, that effective immediately,  
49 the addition, amendment and/or repeal of any rule or regulation neces-  
50 sary for the implementation of section one of this act on its effective  
51 date are authorized and directed to be made and completed on or before  
52 the effective date of such section.