

STATE OF NEW YORK

7919--A

2021-2022 Regular Sessions

IN ASSEMBLY

May 28, 2021

Introduced by M. of A. BRONSON, WALLACE, BYRNES, BURKE, JENSEN, DINOW-ITZ, BARNWELL, LUNSFORD, ROZIC, McDONALD, OTIS, DICKENS, GOTTFRIED, LUPARDO, GRIFFIN, DARLING, SOLAGES, JOYNER, HAWLEY, GALLAHAN, MORINELLO, MIKULIN, LAWLER, J. M. GIGLIO, DeSTEFANO, GANDOLFO, WALCZYK, K. BROWN, DURSO -- Multi-Sponsored by -- M. of A. ANGELINO -- read once and referred to the Committee on Governmental Operations -- recommitted to the Committee on Governmental Operations in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the state finance law, the general municipal law, the public authorities law and the highway law, in relation to enacting the New York state buy American salt act

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

1 Section 1. Short title. This act shall be known and may be cited as
2 the "New York state buy American salt act".

3 § 2. The state finance law is amended by adding a new section 162-a to
4 read as follows:

5 § 162-a. The New York state buy American salt act. 1. Use of American
6 materials. (a) Notwithstanding any other provision of law, each
7 contract for purchase or procurement made by any department or agency of
8 the state shall contain a provision that the rock salt, or sodium chlo-
9 ride, used or supplied in the performance of the contract or any subcon-
10 tract thereto shall be mined or hand harvested in the United States.

11 (b) For the purposes of section one hundred sixty-three of this arti-
12 cle, no bidder shall be deemed to be the lowest responsible and reliable
13 bidder and no bid shall be deemed the best value unless the bid offered
14 by such bidder will comply with the contract term required by paragraph
15 (a) of this subdivision.

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

LBD07974-08-2

(c) The provisions of paragraph (a) of this subdivision shall not apply in any case or category of cases in which the head of such department or agency determines that:

- (i) such requirement would not be in the public interest;
- (ii) such requirement would result in unreasonable costs;
- (iii) such materials and products cannot be produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or
- (iv) obtaining such materials and products in the United States would increase the cost of the contract by an unreasonable amount.

(d) If it has been determined by a court or federal or state agency that any person intentionally:

(i) affixed a label bearing a "Made in America" inscription, or any inscription with the same meaning, to any rock salt, or sodium chloride product used in projects to which this section applies, sold in or shipped to the United States that was not mined or hand harvested in the United States; or

(ii) represented that any rock salt, or sodium chloride product procured in a contract to which this section applies that was not produced in the United States, was produced in the United States; then that person shall be ineligible to receive any contract or subcontract with this state pursuant to the debarment or suspension provisions provided under section one hundred thirty-nine-a of this chapter.

(e) This section shall be applied in a manner consistent with the state's obligations under any applicable international agreements pertaining to government procurement.

2. Definitions. For the purposes of this section, the following words shall have the following meanings unless specified otherwise:

(a) "Public agency" means a governmental entity as that term is defined in section one hundred thirty-nine-j of this chapter;

(b) "Mined or hand harvested in the United States" means: extracted or collected from land or ponds within the boundary of the United States, from the initial separation from the earth through the addition of any additives necessary for commercial sale;

(c) "United States" means the United States of America and includes all territory, continental or insular, subject to the jurisdiction of the United States.

§ 3. The general municipal law is amended by adding a new section 104-d to read as follows:

§ 104-d. The New York state buy American salt act. 1. Use of American materials. (a) Notwithstanding any other provision of law, each contract for purchase or procurement made by any department or agency of a political subdivision shall contain a provision that the rock salt, or sodium chloride, used or supplied in the performance of the contract or any subcontract thereto shall be mined or hand harvested in the United States.

(b) No bidder shall be deemed to be the lowest responsible and reliable bidder and no bid shall be deemed the best value unless the bid offered by such bidder will comply with the contract term required by paragraph (a) of this subdivision.

(c) The provisions of paragraph (a) of this subdivision shall not apply in any case or category of cases in which the head of such department or agency determines that:

- (i) such requirement would not be in the public interest;
- (ii) such requirement would result in unreasonable costs;

1 (iii) such materials and products cannot be produced in the United
2 States in sufficient and reasonably available quantities and of a satis-
3 factory quality; or

4 (iv) obtaining such materials and products in the United States would
5 increase the cost of the contract by an unreasonable amount.

6 (d) If it has been determined by a court or federal or state agency
7 that any person intentionally:

8 (i) affixed a label bearing a "Made in America" inscription, or any
9 inscription with the same meaning, to any rock salt, or sodium chloride
10 product used in projects to which this section applies, sold in or
11 shipped to the United States that was not mined or hand harvested in the
12 United States; or

13 (ii) represented that any rock salt, or sodium chloride product
14 procured in a contract to which this section applies that was not
15 produced in the United States, was produced in the United States; then
16 that person shall be ineligible to receive any contract or subcontract
17 with this state pursuant to the debarment or suspension provisions
18 provided under section one hundred thirty-nine-a of the state finance
19 law.

20 (e) This section shall be applied in a manner consistent with the
21 state's obligations under any applicable international agreements
22 pertaining to government procurement.

23 2. Definitions. For the purposes of this section, the following words
24 shall have the following meanings unless specified otherwise:

25 (a) "Public agency" means a governmental entity as that term is
26 defined in section one hundred thirty-nine-j of the state finance law;

27 (b) "Mined or hand harvested in the United States" means: extracted or
28 collected from land or ponds within the boundary of the United States,
29 from the initial separation from the earth through the addition of any
30 additives necessary for commercial sale;

31 (c) "United States" means the United States of America and includes
32 all territory, continental or insular, subject to the jurisdiction of
33 the United States.

34 § 4. The public authorities law is amended by adding a new section
35 2877-a to read as follows:

36 § 2877-a. The New York state buy American salt act. 1. Use of American
37 materials. (a) Notwithstanding any other provision of law, each
38 contract for purchase or procurement made by any public authority shall
39 contain a provision that the rock salt, or sodium chloride, used or
40 supplied in the performance of the contract or any subcontract thereto
41 shall be mined or hand harvested in the United States.

42 (b) No bidder shall be deemed to be the lowest responsible and reli-
43 able bidder and no bid shall be deemed the best value unless the bid
44 offered by such bidder will comply with the contract term required by
45 paragraph (a) of this subdivision.

46 (c) The provisions of paragraph (a) of this subdivision shall not
47 apply in any case or category of cases in which the head of such public
48 authority determines that:

49 (i) such requirement would not be in the public interest;

50 (ii) such requirement would result in unreasonable costs;

51 (iii) such materials and products cannot be produced in the United
52 States in sufficient and reasonably available quantities and of a satis-
53 factory quality; or

54 (iv) obtaining such materials and products in the United States would
55 increase the cost of the contract by an unreasonable amount.

1 (d) If it has been determined by a court or federal or state agency
2 that any person intentionally:

3 (i) affixed a label bearing a "Made in America" inscription, or any
4 inscription with the same meaning, to any rock salt, or sodium chloride
5 product used in projects to which this section applies, sold in or
6 shipped to the United States that was not mined or hand harvested in the
7 United States; or

8 (ii) represented that any rock salt, or sodium chloride product
9 procured in a contract to which this section applies that was not
10 produced in the United States, was produced in the United States; then
11 that person shall be ineligible to receive any contract or subcontract
12 with this state pursuant to the debarment or suspension provisions
13 provided under section one hundred thirty-nine-a of the state finance
14 law.

15 (e) This section shall be applied in a manner consistent with the
16 state's obligations under any applicable international agreements
17 pertaining to government procurement.

18 2. Definitions. For the purposes of this section, the following words
19 shall have the following meanings unless specified otherwise:

20 (a) "Public authority" means a state, local or interstate authority as
21 those terms are defined in section two of this chapter;

22 (b) "Mined or hand harvested in the United States" means: extracted or
23 collected from land or ponds within the boundary of the United States,
24 from the initial separation from the earth through the addition of any
25 additives necessary for commercial sale;

26 (c) "United States" means the United States of America and includes
27 all territory, continental or insular, subject to the jurisdiction of
28 the United States.

29 § 5. The highway law is amended by adding a new section 12-a to read
30 as follows:

31 § 12-a. The New York state buy American salt act. 1. Use of American
32 materials. (a) Notwithstanding any other provision of law, each contract
33 for purchase or procurement made by any public authority shall contain a
34 provision that the rock salt, or sodium chloride, used or supplied in
35 the performance of the contract or any subcontract thereto shall be
36 mined or hand harvested in the United States.

37 (b) No bidder shall be deemed to be the lowest responsible and reli-
38 able bidder and no bid shall be deemed the best value unless the bid
39 offered by such bidder will comply with the contract term required by
40 paragraph (a) of this subdivision.

41 (c) The provisions of paragraph (a) of this subdivision shall not
42 apply in any case or category of cases in which the head of such public
43 authority determines that:

44 (i) such requirement would not be in the public interest;

45 (ii) such requirement would result in unreasonable costs;

46 (iii) such materials and products cannot be produced in the United
47 States in sufficient and reasonably available quantities and of a satis-
48 factory quality; or

49 (iv) obtaining such materials and products in the United States would
50 increase the cost of the contract by an unreasonable amount.

51 (d) If it has been determined by a court or federal or state agency
52 that any person intentionally:

53 (i) affixed a label bearing a "Made in America" inscription, or any
54 inscription with the same meaning, to any rock salt, or sodium chloride
55 product used in projects to which this section applies, sold in or

1 shipped to the United States that was not mined or hand harvested in the
2 United States; or

3 (ii) represented that any rock salt, or sodium chloride product
4 procured in a contract to which this section applies that was not
5 produced in the United States, was produced in the United States; then
6 that person shall be ineligible to receive any contract or subcontract
7 with this state pursuant to the debarment or suspension provisions
8 provided under section one hundred thirty-nine-a of the state finance
9 law.

10 (e) This section shall be applied in a manner consistent with the
11 state's obligations under any applicable international agreements
12 pertaining to government procurement.

13 2. Definitions. For the purposes of this section, the following words
14 shall have the following meanings unless specified otherwise:

15 (a) "Public authority" means a governmental entity as that term is
16 defined in section one hundred thirty-nine-j of the state finance law;

17 (b) "Mined or hand harvested in the United States" means: extracted or
18 collected from land or ponds within the boundary of the United States,
19 from the initial separation from the earth through the addition of any
20 additives necessary for commercial sale;

21 (c) "United States" means the United States of America and includes
22 all territory, continental or insular, subject to the jurisdiction of
23 the United States.

24 § 6. Severability. If any provision of this act, or any application of
25 any provision of this act, is held to be invalid, that shall not affect
26 the validity or effectiveness of any other provision of this act, or of
27 any other application of any provision of this act, which can be given
28 effect without that provision or application; and to that end, the
29 provisions and applications of this act are severable.

30 § 7. This act shall take effect immediately.