

Text of New York State Bill A10868

S T A T E O F N E W Y O R K

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R. R. 721

I N A S S E M B L Y

May 1998

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Morelle, Farrell, Schimminger, Tonko, Brodsky, Hoyt, DiNapoli, Cook, Canestrari, Destito, Grannis, John, Koon, Mazzarelli, Nolan, Ortiz, Robach) -- read once and referred to the Committee on Small Business -- reported and referred to the Committee on Rules -- amended on the special order of third reading, ordered reprinted as amended, retaining its place on the special order of third reading

AN ACT to amend the state finance law, in relation to prioritizing the purchasing of remanufactured commodities through the state procurement process and providing for the repeal of certain provisions upon the expiration thereof

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Legislative findings. The legislature finds that New York
2 state's remanufacturing industry, which is composed of a wide array of
3 businesses many of which are small businesses, is a vital sector of the
4 economy, employing thousands of people while diverting thousands of tons
5 of solid waste from entering our landfills. The legislature further
6 finds that the state procurement process already encourages the purchas-
7 ing of products that are recycled and those that can be supplied from
8 our largest growth sector, small businesses. Based on these two prece-
9 dents and the fact that remanufactured products are the highest form of
10 recycling, the legislature finds and declares that the state should
11 actively seek to purchase remanufactured goods.

12 S 2. Subdivision 3 of section 160 of the state finance law, as added
13 by chapter 83 of the laws of 1995, is amended and a new subdivision 11
14 is added to read as follows:

15 3. "Commodity" or "commodities" means, except with respect to
16 contracts for state printing SERVICES, material goods, supplies,
17 products, construction items or other standard articles of commerce
18 other than technology which are the subject of any purchase or other
19 exchange.

20 11. "REMANUFACTURED" MEANS THE PROCESS WHERE A COMMODITY IS RESTORED
21 TO ITS ORIGINAL SPECIFICATIONS AND IS THEREBY DIVERTED FROM THE SOLID

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
{ } is old law to be omitted.

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1 WASTE STREAM, RETAINING THE BULK OF COMPONENTS THAT HAVE BEEN THROUGH AT
2 LEAST ONE LIFE CYCLE AND REPLACING CONSUMABLE PORTIONS TO ENABLE THE
3 ITEM TO BE RESTORED TO ITS ORIGINAL FUNCTION.

4 S 3. Subdivision 3 of section 163 of the state finance law is amended

5 by adding a new paragraph e to read as follows:

6 E. A STATE AGENCY SHALL NOT PURCHASE ANY COMMODITY WHOSE ORIGINAL
7 MANUFACTURER PLACES RESTRICTIONS ON THE REMANUFACTURING OF SAID COMMOD-
8 ITY BY ANY OTHER BUSINESS. SUCH RESTRICTIONS BY A MANUFACTURER SHALL
9 INCLUDE BUT SHALL NOT BE LIMITED TO: REDUCING THE PRICE OF THE PRODUCT
10 IN EXCHANGE FOR AN AGREEMENT NOT TO REMANUFACTURE THE PRODUCT; A LICENS-
11 ING AGREEMENT ON THE PRODUCT THAT FORBIDS REMANUFACTURING; OR ANY
12 CONTRACT THAT FORBIDS THE REMANUFACTURING OR RECYCLING OF THE PRODUCT.
13 IN FURTHERANCE OF THIS SECTION WHICH IS INTENDED TO PREVENT USED COMMOD-
14 ITIES FROM ENTERING INTO THE SOLID WASTE STREAM, ORIGINAL MANUFACTURERS,
15 WHO HAVE ESTABLISHED RECYCLING OR REMANUFACTURING PROGRAMS AVAILABLE TO
16 A MAJORITY OF THEIR CUSTOMERS, MAY ENTER INTO SIGNED AGREEMENTS REQUIR-
17 ING THE RETURN OF USED COMMODITIES FOR THE SOLE PURPOSE OF RECYCLING AND
18 REMANUFACTURING AND MAKING THE REMANUFACTURED COMMODITIES READILY AVAIL-
19 ABLE FOR PURCHASE.

20 S 4. Paragraphs a and b of subdivision 3 of section 165 of the state
21 finance law, as added by chapter 83 of the laws of 1995, are amended to
22 read as follows:

23 a. All products purchased by the commissioner or other state agencies
24 shall be recycled OR REMANUFACTURED products, which meet the contract
25 specifications, unless the product is only available without recycled OR
26 REMANUFACTURED content, and provided that the cost of the recycled OR
27 REMANUFACTURED product does not exceed a cost premium of ten percent
28 above the cost of a product made without recycled content or, if at
29 least fifty percent of the secondary materials utilized in the manufac-
30 ture of that product are generated from the waste stream in New York
31 state, the cost of the recycled OR REMANUFACTURED product does not
32 exceed a cost premium of fifteen percent above the cost of a comparable
33 product that is not a recycled product. For the purpose of this subdivi-
34 sion, "recycled product" shall mean any product, which has been manu-
35 factured from secondary materials, as defined in subdivision one of
36 section two hundred sixty-one of the economic development law, and meets
37 secondary material content requirements adopted by the office of general
38 services which shall be consistent, to the extent practicable, with
39 regulations promulgated pursuant to section 27-0717 of the environmental
40 conservation law or, if no such requirements have been adopted or no
41 such product is available, meets the secondary material content require-
42 ments adopted by any state agency with respect to a specific commodity
43 procurement by such agency.

44 b. The commissioner shall review the procurement specifications
45 currently used by such agency in order to eliminate, wherever feasible,
46 discriminations against the procurement of products THAT ARE REMANUFAC-
47 TURED OR manufactured with recovered materials; and shall annually
48 review the paper specifications to consider increasing the percentage of
49 recycled paper in paper product purchases. IN ADDITION, THE COMMISSION-
50 ER SHALL REVIEW THE PURCHASING REQUEST OF DURABLE EQUIPMENT THAT
51 CONSUMES OR EXHAUSTS OTHER COMMODITIES. SUCH A PURCHASE SHALL TAKE INTO
52 CONSIDERATION THE AVAILABILITY OF REMANUFACTURED COMMODITIES TO REPLACE
53 THE ORIGINAL COMMODITIES OF THE DURABLE EQUIPMENT. DURABLE EQUIPMENT
54 SHOULD NOT BE PURCHASED FROM A MANUFACTURER THAT HAS PLACED ENCUMBRANC-
55 ES, PURSUANT TO SUBDIVISION THREE OF SECTION ONE HUNDRED SIXTY-THREE OF

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1 THIS ARTICLE, ON THE PURCHASING OF THE MANUFACTURERS AFTERMARKET COMMOD-
2 ITIES FOR SUCH DURABLE EQUIPMENT.

3 S 5. This act shall take effect immediately provided, however, that
4 the amendments made to section 163 of the state finance law by section
5 three of this act shall not affect the repeal of such section and shall
6 be deemed to be repealed therewith.

.SO DOC A 10868A

END

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