

Introduced: 2/17/86
Referred: State Affairs,
Judiciary and Finance

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

1 IN THE HOUSE

2 HOUSE BILL NO. 679

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the purchase of Alaska products;
7 and providing for an effective date."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. AS 36.15 is amended by adding new sections to read:

10 CHAPTER 15. [FOREST] PRODUCTS PREFERENCE.

11 Sec. 36.15.030. USE OF ALASKA PRODUCTS. In a public con-
12 struction project, as defined in AS 36.95.010(3), financed in whole or
13 in part with state money, Alaska products must be used whenever prac-
14 ticable. Projects financed with state money include projects con-
15 structed by the Department of Transportation and Public Facilities or
16 any other state agency, including the Alaska Power Authority, the
17 Alaska State Housing Authority, and the University of Alaska, and by
18 municipalities under AS 35.15.080; any projects constructed by munic-
19 ipalities, which are financed with municipal grants; and school con-
20 struction projects financed under AS 14.11.020 or with municipal debt
21 reimbursed under AS 14.11.100.

22 Sec. 36.15.040. ALASKA PRODUCT PREFERENCE; CONTRACT SPECIFICA-
23 TIONS. All contract specification for projects described in AS 36.-
24 15.030 must state that the bidders who designate in their bids the use
25 of Alaska products, as identified in the specifications, are given a
26 preference under AS 36.15.060 in the evaluation of their bids if the
27 designated products meet the contract specifications.

28 Sec. 36.15.050. IDENTIFICATION OF ALASKA PRODUCTS. A public
29 entity with contracting authority may identify specific Alaska

1 products that may be used in the construction of a specific public
2 construction project.

3 Sec. 36.15.060. ALASKA PRODUCT PREFERENCE; EVALUATION OF BIDS
4 AND CONTRACT AWARD. (a) For the purposes of evaluation, bids of
5 bidders who designate the use of Class I, II, or III Alaska products,
6 as identified in the contract specifications, are decreased by the
7 appropriate percentage, set under AS 36.15.080(c), of the value of
8 those designated Alaska products. Class I, II, and III products are
9 those products classified as such under AS 36.15.080(a) and (b).

10 (b) After calculation of the preference under (a) of this sec-
11 tion, the responsible bidder submitting the lowest total bid must be
12 awarded the contract unless another bidder must be awarded the con-
13 tract under the Alaska bidder's preference in AS 37.05.230(1).

14 (c) The contract amount of any contract awarded is the amount of
15 the bid price offered by the bidder.

16 (d) This section does not apply to public construction projects
17 financed in whole or in part with federal money or aid if the prefer-
18 ences allowed are contrary to federal law or regulation.

19 Sec. 36.15.070. PENALTY FOR FAILING TO USE ALASKA PRODUCTS. (a)
20 If a contractor who designates, in the bid, the use of Alaska products
21 fails, for reasons within the contractor's control to use those prod-
22 ucts, payments under the contract are reduced by four, six, or eight
23 percent, respectively, of the value of the designated Class I, Class
24 II, or Class III Alaska products.

25 (b) If the failure to use Alaska products is beyond the control
26 of the contractor, payments under the contract are reduced by three,
27 five, or seven percent, respectively, of the value of the designated
28 Class I, II, or III Alaska products.

29 (c) A bidder is not a responsible bidder if, in the preceding

1 three years, the bidder has twice designated the use of Alaska prod-
2 ucts in bids for public construction projects and has failed to use
3 the designated products, for reasons within the contractor's control,
4 after the award of the contracts to the bidder.

5 (d) A public entity using state money for a public construction
6 project shall report to the Department of Labor the names of contrac-
7 tors penalized under (a) of this section. The Department of Labor
8 shall maintain a list of contractors considered, under (c) of this
9 section, not to be responsible bidders.

10 Sec. 36.15.080. CLASSIFICATION OF ALASKA PRODUCTS. (a) The
11 Department of Labor shall adopt regulations establishing the value
12 added in the state for materials and supplies produced or manufactured
13 in Alaska that are used in construction projects, and shall publish
14 annual lists of those products. Suppliers may request inclusion of
15 their products on the appropriate list.

16 (b) Materials and supplies with value added in Alaska which is
17 (1) more than 25 percent and less than 50 percent of the
18 manufacturer's quoted prices are Class I products;
19 (2) 50 percent or more, and less than 75 percent, of the
20 manufacturer's quoted prices are Class II products; and
21 (3) 75 percent or more of the manufacturer's quoted prices
22 are Class III products.

23 (c) In bid evaluations under AS 36.15.060,
24 (1) Class I products are given a three percent preference;
25 (2) Class II products are given a five percent preference;
26 and
27 (3) Class III products are given a seven percent prefer-
28 ence.

29 * Sec. 2. AS 36.20.010 is amended to read:

1 Sec. 36.20.010. PREFERENCE OF PRODUCERS OR DEALERS IN ALASKA.
2 In making purchases or awarding contracts for supplies, commodities or
3 materials for an office or institution of this state preference must
4 [SHALL] be given, whenever practicable, to producers and dealers in
5 the state, price and quality being equal. Preference must be given
6 under AS 36.15.060 to bidders who designate the use of Alaska products
7 for public construction projects financed in any part with state
8 money.

9 * Sec. 3. AS 36.95.010 is amended by adding new paragraphs to read:

10 (9) "Alaska products" means products produced or man-
11 ufactured in Alaska if the value added in the state is not less than
12 25 percent of the manufacturer's quoted prices;

13 (10) "products" means materials or supplies, but does not
14 include gravel; and

15 (11) "produced or manufactured" means processing, develop-
16 ing, or making an item into a new item with a distinct character and
17 use through the application, within the state, of materials labor,
18 skill, or other services.

19 * Sec. 4. AS 37.05.230(1) is amended to read:

20 (1) a contract for construction and repairs, or a purchase
21 of and contract for supplies, materials, equipment, and contractual
22 services must be based on competitive bids; an award must [SHALL] be
23 made to the lowest responsible bidder after advertising for bids,
24 except that (A) notwithstanding an Alaska product preference calculat-
25 ed under AS 36.15.060, a bid must [SHALL] be awarded to an Alaska
26 bidder if the bid price offered by the bidder is not more than five
27 percent higher than the lowest bid price offered by a nonresident
28 bidder [BIDDER'S]; and (B) competitive bids need not be required (i)
29 for contractual services where no competition exists; (ii) for sales

1 involving fair trade items; (iii) when, in the judgment of the pur-
2 chasing agent, food, clothing, or medical supplies, or materials for
3 use in laboratory and experimental studies may be purchased otherwise
4 to the best advantage of the state; (iv) where rates are fixed by law
5 or ordinance; (v) for items traded in on like items; or (vi) for
6 professional services;

7 * Sec. 5. AS 37.05.260 is amended to read:

8 Sec. 37.05.260. PREFERENCE FOR ALASKA PRODUCTS. This chapter
9 does not modify, amend, or alter AS 36.15.010 and 36.15.020 regarding
10 preference for Alaska forest products, AS 36.15.060 regarding prefer-
11 ences for Alaska products, or AS 36.20.010 regarding preference to
12 producers or dealers in Alaska except as provided in AS 37.05.230(1).

13 * Sec. 5. This bill takes effect January 1, 1987.