

HB

269

HOUSE COMMITTEE REPORT

(7)

Date Referred to Committee: January 15, 2008

FURTHER REFERRALS:

Date of Committee Action: 3-4-08

The STATE AFFAIRS Committee considered:

HB 269

HOUSE BILL NO. 269

REQUIRE AK/US FLAGS BE MADE IN USA

"An Act requiring the state to procure United States and Alaska flag manufactured in the United States; and requiring state buildings and schools to display only United States and Alaska flags manufactured in the United States."


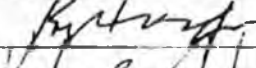


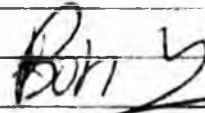
Recommends it be replaced with HCS or CS for HB 269 (STA)
 For Senate Bills with new title: Technical Title New Title: HCR _____ | Same Title New Title

- attach amendments
- add new referral to _____ Committee
- Letter of Intent _____ Committee

List of Abbrev for Depts:
 ADM
 CED
 COR
 CRT
 EED
 DEC
 DFG
 GOV
 HSS
 LWF
 LAW
 LEG
 MVA
 DNR
 DPS
 REV
 DOT
 UA

<u>NEW FISCAL NOTES</u>				
*Assigned by Chief Clerk's Office				
List by Dept(s):	*FN#	Fiscal	Indet.	Zero
ADM				✓

<u>PREVIOUS FISCAL NOTES</u>				
List by Dept(s):	FN#	Fiscal	Indet.	Zero

<u>Signing with recommendations</u>	Printed Last Name	DP	DNP	NR	AM
	Johnson			X	
	JOHANSEN			X	
	Rose			X	
	Coahit/Doll			X	
	LYNN	X			
Chair: _____					
Chair: _____					

Nancy Manly

From: Lori Roland
Sent: Wednesday, April 02, 2008 10:01 AM
To: Nancy Manly
Subject: ques' on

Nancy, below is excerpt from 2/28 minutes regarding HB 269. I have all the Dennis Bailey memos in the packet, but do not have the Jeff Freidman e-mail. He thought it should be part of the packet/public record, so if you have it or are going to get it, please send a copy to me. Thanks.

REPRESENTATIVE GRUENBERG thanked all involved for tightening up the language of bill, which he said is now constitutional. He noted for the record that the committee had received legal opinions from Dennis Bailey of Legislative Legal and Research Services, dated January 24, 28 and February 13, as well as an e-mail from Jeff Freidman stating concerns, which he said have been addressed in Version K. He stated his desire that all those documents be included in the committee packet.

Lori Roland

Secretary/Transcriptionist
House Records
465-6609

Library

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LEGISLATIVE AFFAIRS AGENCY
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Deliveries to 229 6th St., Rm. 329

MEMORANDUM

January 24, 2008

SUBJECT: Whether the federal supremacy clause or the foreign commerce clause would prohibit the state from requiring purchase of items only made in the United States; penalties for using flag manufactured outside the United States; whether reported cases have considered state laws mandating purchase of flags made only in the United States (HB 269, Work Order No. 25 LS1013\C)

TO: Representative Max Gruenberg
Attn: Lisa Mariotti

FROM: Dennis C. Bailey *DCB*
Legislative Counsel

You have asked me to review HB 269, which requires that only flags manufactured in the United States shall be purchased by the state, in the context of the federal constitution's foreign commerce clause and the commerce or treaties clauses. Although the restriction may initially seem of little consequence, a mandate that prohibits the state from purchasing foreign products may be judicially interpreted to interfere with the right of the Congress to regulate foreign trade. Such a restriction might violate the foreign commerce clause of the United States Constitution, art. I, sec. 8, clause 3, which provides that the Congress has the power to regulate commerce with foreign nations; the foreign affairs powers (e.g., the making of treaties) given to the president under art. II, sec. 2, cl. 2 of the United States Constitution; or the supremacy clause, art. VI, sec. 2, which states that the United States Constitution, the laws of the United States, and treaties made under the authority of the United States are the supreme law of the land. The work request was only recently brought to my attention so additional time is needed for me to prepare a more formal opinion at your request.

You have also asked me to review the penalties that may be imposed on a state entity or school that fails to comply with the requirement that only flags manufactured in the United States may be purchased by the state and displayed in state facilities and schools. I was unable to find a statutory penalty for failure to display a flag at school buildings under AS 14.03.130, which is amended by sec. 1 of HB 269. The statutory penalty violating AS 15.15.060(c), which is amended by sec. 2 of HB 269, probably falls under the crime of election official misconduct in the first degree, which penalizes the intentional failure to perform an election duty under AS 15.56.070(a)(1) and is a class C felony. The penalty for violation of the state procurement code (AS 36.30), which is

amended by sec. 3 of HB 269, probably falls under the criminal and civil penalties for violation of the procurement code under AS 36.30.930, which reads:

Sec. 36.30.930. Civil and criminal penalties. The following penalties apply to violations of this chapter:

(1) a person who contracts for or purchases supplies, equipment for the state fleet, services, professional services, or construction in a manner the person knows to be contrary to the requirements of this chapter or the regulations adopted under this chapter is liable for all costs and damages to the state arising out of the violation;

(2) a person who intentionally or knowingly contracts for or purchases supplies, equipment for the state fleet, services, professional services, or construction under a scheme or artifice to avoid the requirements of this chapter is guilty of a class C felony.

The attorney general is responsible for enforcing the procurement code. AS 39.30.940. I was unable to find a specific penalty for violation of AS 44.09.030 relating to the requirement of displaying flags, which is amended by sec. 4 of HB 269.

You also asked me to briefly look at whether a judicial decision concerning a statute requiring that flags be manufactured in the United States has been reported. My searches revealed no state or federal cases addressing a requirement that a flag be manufactured in the United States.

If I may be of further assistance, please advise.

DCB:ljw
08-032.ljw

Bob:

HB269 requires that official flags of the United States of America and the State of Alaska be manufactured in the United States, and that only such flags be displayed on state buildings and schools. This bill isn't as complex as AGIA or ACES and, on the surface, may not seem to be as important as some of the other issues we struggle with on this committee, or on the House floor. But this bill is important, and I hope you think so too.

All manner of products are imported into our nation, but those items are "things." Our nation's flag is *not* a "thing," it's not just bits of colored cloth sewn together in a pretty pattern.

Our flag is a *unique* symbol to which we "pledge allegiance" - because it represents our nation's unique heritage, and Values, for which thousands of Americans have died. Justice Felix Frankfurter described our flag as "The symbol of our national life." I hope you agree.

This bill helps protect the time-honored tradition of American flags being made in America when, according to legend, a delegation from the Continental Congress called upon Betsy Ross to sew that first American flag - and George Washington may have been part of that delegation.

I have *no* problem with Free Trade, so long as it occurs on a level playing field, and so long as it doesn't jeopardize national security. Nobody's saying we shouldn't import cars, or clothes, or a myriad of other things - but please, at least *one* thing - the American flag - the most important symbol of America - should be manufactured in America.

Many of the flags procured by the state are bought to fly over the capitol building. It would seem to me that it never occurs to most Alaskans who make that request for flags, that the flag they receive may have been made in communist China, or some other foreign country.

A couple years ago, a young Marine from my district, serving in Iraq, asked my office for an Alaska flag to proudly display his tent so his buddies could see it. We don't know where that flag was manufactured - but we *should* have been able to know, and this bill would have made it possible. The sad fact is, that young Marine was killed in action soon after he received the flag. Another fact is, that Marine's mother is now a staffer for Senator Huggins. I hope that flag was made in America.

I also have a letter of support from Anchorage 550KENI talk show host Mike Porcaro in support of this bill, and he's one of my constituents. Let me give credit where credit is due. The fact is, it was Mike Porcaro's comments on one of his radio shows that gave me the idea for this bill. Mike is usually very shy and subtle on his show, but when talking about our flag on his radio show, I detected that Mike had an opinion on the subject of the American flag.

In summary, we're talking about the American flag – and the American flag *should* be an American flag. Same same, the Alaska flag.

Let me ask my Chief of Staff Nancy Manly to come forward to present some other information on this bill.

Derm Jones - Chief procurement officer
for the State can answer any
questions on Procurement.

Avoid
unnecessary delay
but as a company
to a colleague
~~not just~~
absent no just

not must patient
on flag issue

PORCARO
COMMUNICATIONS

HB 269

January 23, 2008

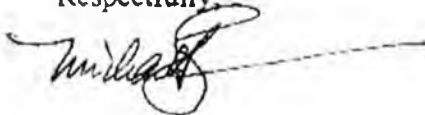
Representative Bob Lynn
House District 31

Dear Representative Lynn:

I am writing in support of Representative Lynn's House Bill No. 269, requiring that United States and Alaska flags on display at state buildings and schools be manufactured in the United States. This issue is close to me because it is a symbol of our support for the economy, the American worker and those who have risked their lives in defense of this nation. While many jobs and resources have fled our country, this is a simple example of how we are willing to pay for a quality product and preserve manufacturing jobs. This symbol of respect and freedom must be made by American hands.

Tennessee and Minnesota have already taken action. Alaska can also show its leadership on this issue. I urge your support of House Bill No. 269.

Respectfully



Michael Porcaro



433 West 9th Avenue, Anchorage, Alaska 99501

☎ (907) 276-4262 fax (907) 276-7280

internet porcarocommunications.com

Library

Before the State Affairs Committee, Alaska State Legislature
Written testimony of Demian A. Schane in support of HB 284 (PFD Allowable Absences:
Fellowships)

January 24, 2008

Dear Committee Members:

My name is Demian Schane, and I am a resident of Juneau, Alaska. I currently work for the National Oceanic & Atmospheric Administration, but I would like to make clear that I give this testimony as an individual and on my own behalf. I do not represent the views of my agency or the federal government.

I applaud the efforts of Representative Hawker and urge all legislative staff to support HB 284. I believe it is important, and the current PFD statute already does this to a certain extent, to support residents who leave the State for educational purposes or to serve the country and State (e.g., to serve in the military, in Congress, in the U.S. Peace Corps, or on the U.S. Olympic Team). The proposed amendment adds one more excusable absence that I believe is a worthy one.

Every year, a handful of Alaskans are offered fellowship opportunities to live abroad in the pursuit of educational and/or vocational training. I personally spent 10 months in Iceland on a U.S. Fulbright grant studying the European Union's mechanisms for regulating escapes from farm fishing operations. It was a uniquely rewarding experience and an honor and privilege to represent the U.S. and Alaska in Iceland.

The Fulbright Program is funded through the U.S. Department of State and it promotes a cultural and educational exchange program in numerous foreign countries. The grantees can enroll in a foreign university or conduct research independently under the auspices of a university or professional organization. During the grant period, grantees will typically meet with the staff of the U.S. embassy and the host country's counterparts. The host country may also offer a variety of forums to foster the exchange of ideas, experiences, and values. For example, in Iceland, there were conferences on international seafood trade, aquaculture innovations, and genetic impacts on wild fish populations from farmed fish escapes. In short, the program offers U.S. citizens an opportunity to further their understanding of issues and policies of international significance and experience how other cultures endeavor to resolve them.

U.S. sponsored fellowships such as the U.S. Fulbright Program are professionally and personally rewarding. I hope that the Legislature recognizes and supports its fellow Alaskans' efforts to pursue such opportunities by allowing them to do so without losing their residential status and eligibility for a PFD disbursement.

Thank you for your time and consideration.

Sincerely,
Demian A. Schane
836 Calhoun Ave
Juneau, AK 99801
907-463-5145

dschane@gmail.com

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MEMORANDUM

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Attn: Lisa Mariotti

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Legislative Counsel

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Representative Max Gruenberg

January 24, 2008

Page 2

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DCB:ljw
08-032.ljw

Alaska State Legislature

Chairman
State Affairs Committee

Member
Judiciary Committee
Economic Development, Trade & Tourism
Committee
Education Committee
Joint Armed Services Committee

Finance Subcommittees
Labor & Workforce Development
Community & Economic Development
Military & Veterans' Affairs



A Communication From
REPRESENTATIVE BOB LYNN
District 31 Anchorage

E-Mail: Representative_Bob_Lynn@legis.state.ak.us
"Bob Lynn's Alaska Blog" AlaskaDistrict31.blogspot.com

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Sponsor Statement

HB 269

HB 269 requires that official flags of the United States of America and the State of Alaska be manufactured in the United States, and that only such flags be displayed on state buildings and schools.

All manner of products are imported into our nation, but those items are "things." Our nation and state's flags are not "things," not just colored cloth. They are unique symbols to which we "pledge allegiance" because they represent our nation's unique heritage, values, and for which thousands of Americans have died for.

The National Headquarters of the American Legion has passed a resolution that encourages state agencies to purchase and display only American manufactured American flags. States other than Alaska have already enacted such legislation.

Now is the time to bring Old Glory and Alaska's "Eight Stars on a Field of Blue" home to the United States, and that's what this bill does.

FISCAL NOTE

STATE OF ALASKA
2008 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB269
 () Publish Date: _____

Identifier (file name): HB269-DOA-GS-1-11-08 Dept. Affected: Administration
 Title: "An Act Requiring Procurement of United States and Alaska flags made in the US to be displayed in state buildings ..." RDU: State Owned Facilities
 Component: Facilities
 Sponsor: Representative Lynn
 Requester: (H) State Affairs Component Number: 2429

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

	Appropriation Required	Information						
		FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
OPERATING EXPENDITURES								
Personal Services								
Travel								
Contractual								
Supplies								
Equipment								
Land & Structures								
Grants & Claims								
Miscellaneous								
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts								
1003 GF Match								
1004 GF								
1005 GF/Program Receipts								
1037 GF/Mental Health								
Other Interagency Receipts								
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2008) cost: _____

POSITIONS

Full-time	0	0	0	0	0	0	0	0
Part-time	0	0	0	0	0	0	0	0
Temporary	0	0	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

This bill would require the state to buy only US manufactured Alaska and US flags, and require that only US made Alaska and US flags be displayed at state buildings and schools

The Division of General Services (DGS) already ensures that the flags we purchase and display are manufactured in the US. Given this previously existing practice, this bill will have no effect on the division

Prepared by: Vern Jones
 Division: General Services
 Approved by: Kevin Brooks Deputy Commissioner
Department of Administration

Phone: 465-5684
 Date/Time: 1/11/08 2:00 PM
 Date: 1/11/2008

Relevant Statutes HB 269 Require Alaska/USA Flags Made in the USA

Sec. ~~44.09.030~~. Display and retirement of flags.

(a) The official flag of the state shall be displayed with the flag of the United States only from sunrise to sunset, or between the hours designated by proper authority. However, the flag may be displayed after sunset upon special occasions when it is desired to produce a patriotic effect.

(b) The flag of the United States and the flag of the State of Alaska shall be displayed daily, weather permitting, in the following places:

(1) on or near the main administration building of every institution under the authority or control of the state government;

(2) in or near every schoolhouse during school days.

(c) An official flag of the state that is no longer a fitting emblem for display because it is worn, tattered, or otherwise damaged may be respectfully retired by fire.

Sec. ~~14.03.130~~. Display of flags and pledge of allegiance.

(a) United States and Alaska flags shall be displayed upon or near each principal school building during school hours and at other times the governing body considers proper. The governing body shall require that the pledge of allegiance be recited regularly, as determined by the governing body. A person may recite the following salute to the flag of the United States or maintain a respectful silence: "I pledge allegiance to the flag of the United States of America and to the republic for which it stands, one nation under God, indivisible, with liberty and justice for all."

(b) A school district shall inform all affected persons at the school of their right not to participate in the pledge of allegiance. The exercise of the right not to participate in the pledge of allegiance may not be used to evaluate a student or employee or for any other purpose.

Relevant Statutes HB 269 Require Alaska/USA Flags Made in the USA

Sec. 15.15.060. Polling places, voting booths, and supplies.

(a) Immediately following the appointment of the election board, the election supervisor in conjunction with the election board chair shall secure polling places for holding the election, suitable ballot boxes that will assure security, and an adequate number of voting booths or screens, national flags, pens, and pencils. At every polling place, at least one voting booth shall be furnished and not less than one voting booth or screen shall be furnished for each 100 votes or fractional part of 100 votes cast in the previous election. At every polling place, at least one-half of the voting booths used shall be not less than six feet in height, enclosed on three sides, and provided with a curtain extending from the top of the voting booth to within approximately 30 inches of the floor. The curtain of the voting booth must conceal the voter while voting. The election supervisor and the election board chair may, in an emergency, secure an alternate location for a polling place.

(b) To assure administrative economy and to protect the secrecy of the ballot, the director may adopt regulations prescribing

(1) the type of polling place for holding the election;

(2) the requirements regarding ballot boxes, voting screens, national flags, and other supplies; and

(3) subject to the specifications of (a) of this section, the requirements regarding voting booths.

(c) The director shall pay the cost of necessary election expenses incurred in securing a place for holding the election, a suitable ballot box, and an adequate number of voting booths, screens, national flags, and other supplies. The national flag shall be displayed over or near the entrance of each polling place.

(d) When the director determines that there is an area in the state where a voter may be confused as to the voter's correct precinct polling place, the director shall provide each polling place in that area with maps and materials that indicate house district boundaries, precinct boundaries, and polling places.

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MEMORANDUM

July 12, 2007

SUBJECT: Purchase of flags manufactured in the United States; drafting issues (Work Order No. 25-LS1013\A)

TO: Representative Bob Lynn
Attn: Nancy Manly

FROM: Dennis C. Bailey *DCB*
Legislative Counsel

This memo accompanies the draft bill you requested. Please note the following.

I have omitted a reference to the Flag Manufactures Association of America (FMAA) as an entity to establish what actually constitutes "manufactured in the United States." This avoids a possible unconstitutional delegation of a legislative function by permitting the FMAA to establish or modify a definition that would otherwise be established or modified by the legislature. Instead, I used the definition extracted from the FMAA website.

The Alaska Procurement Code applies to flag purchases by the state without a specific reference in the bill. AS 36.30.005(a) Also, the Procurement Code preference for Alaska products applies and should address your request for a preference for flags made in Alaska. See AS 36.30.328.

If I may be of further assistance, please advise.

DCB:med
07-336.med

Enclosure

LEGISLATIVE RESEARCH REPORT

JANUARY 16, 2008



REPORT NUMBER 08.095

FLAGS AT STATE FACILITIES

PREPARED FOR REPRESENTATIVE ANDREA DOLL

BY DANIEL LESH, LEGISLATIVE ANALYST

You asked for an estimate of the total number of Alaska and United States flags currently on display or on hand at state facilities and the number of flags purchased annually by the state. In Table 1, we provide the information we were able to collect in the time frame allotted.

Table 1: Alaska and United States Flags at State Facilities

Department	Displayed	On Hand	Annual Purchases	Origin
Office of the Governor	2	172	215	unknown
Legislature		62	8	US
Administration	20	31	18	unknown
Commerce, Community, and Economic Development	18	84	0	US
Corrections	24	20	32	US
Education and Early Development				
Environmental Conservation	2	0	0	US
Fish and Game	2	0	0	unknown
Health and Social Services				
Labor and Workforce Development	0	10 ⁽¹⁾	0	unknown
Law	6	0	2	unknown
Military and Veteran's Affairs	N/A	0	0	unknown
Natural Resources	40	11	14	US
Public Safety		28	35	US
Revenue				
Transportation	118	52	148	US
University of Alaska				
TOTALS	232	563	472	

NOTES and SOURCES These data are estimates provided by procurement officers at each department. Flags displayed at Alaska National Guard Armories are purchased with federal funds and are noted as N/A above. We did not contact state entities that conduct their purchasing independent of executive branch departments or the Legislature, including, among others, the Alaska Railroad, the Alaska Permanent Fund Corporation, and the Alaska Housing Finance Corporation. Empty cells in this table represent a lack of response. All flags listed above are three by five feet or larger in size.

Please do not hesitate to contact us if you have questions or need additional information.

History of American Flag.

For more than 200 years, the American flag has been the symbol of our nation's strength and unity. It's been a source of pride and inspiration for millions of citizens. And the American Flag has been a prominent icon in our national history. Here are the highlights of its unique past.

On January 1, 1776, the Continental Army was reorganized in accordance with a Congressional resolution which placed American forces under George Washington's control. On that New Year's Day the Continental Army was laying siege to Boston which had been taken over by the British Army. Washington ordered the Grand Union flag hoisted above his base at Prospect Hill. It had 13 alternate red and white stripes and the British Union Jack in the upper left-hand corner (the canton).

In May of 1776, Betsy Ross reported that she sewed the first American flag.

On June 14, 1777, in order to establish an official flag for the new nation, the Continental Congress passed the first Flag Act: "Resolved, That the flag of the United States be made of thirteen stripes, alternate red and white; that the union be thirteen stars, white in a blue field, representing a new Constellation."

Between 1777 and 1960, Congress passed several acts that changed the shape, design and arrangement of the flag and allowed for additional stars and stripes to be added to reflect the admission of each new state.

- Act of January 13, 1794 - provided for 15 stripes and 15 stars after May 1795.
- Act of April 4, 1818 - provided for 13 stripes and one star for each state, to be added to the flag on the 4th of July following the admission of each new state. signed by President Monroe.
- Executive Order of President Taft dated June 24, 1912 - established proportions of the flag and provided for arrangement of the stars in six horizontal rows of eight each, a single point of each star to be upward.
- Executive Order of President Eisenhower dated January 3, 1959 - provided for the arrangement of the stars in seven rows of seven stars each, staggered horizontally and vertically.
- Executive Order of President Eisenhower dated August 21, 1959 - provided for the arrangement of the stars in nine rows of stars staggered horizontally and eleven rows of stars staggered vertically.

Today the flag consists of thirteen horizontal stripes, seven red alternating with 6 white. The stripes represent the original 13 colonies, the stars represent the 50 states of the Union. The colors of the flag are symbolic as well: Red symbolizes Hardiness and Valor, White symbolizes Purity and Innocence and Blue represents Vigilance, Perseverance and Justice.

StarTribune.com MINNEAPOLIS - ST. PAUL, MINNESOTA

New law for Old Glory

Associated Press

Last update: July 03, 2007 – 1:07 PM

At American Legion Post 65 in Rosemount, visitors can drop off worn U.S. flags knowing they'll be disposed of with the proper respect. On their way out, they can buy a new 3-by-5 flag for \$20 or a 4-by-6-footer for \$30.

Made in America, of course.

"That's our flag. It belongs here in the United States; it should be made in the United States," Air Force veteran Bob Racette said while fingering a flag in a corner of the legion hall bar.

By year's end, a new law will require every Old Glory sold in Minnesota stores to be American made. It's the latest and strongest attempt by states to stem imports of foreign-made U.S. flags.

In Arizona, schools and public colleges were required starting July 1 to outfit every classroom from junior high up with a made-in-the-USA flag. Tennessee requires all U.S. flags bought via state contract to be made here, and similar bills are moving forward in both New Jersey and Pennsylvania.

The Fourth of July is considered peak season for flag sales with millions of them lining parade routes and flying above back yard barbecues.

Most of the major domestic flag makers are privately held companies that don't release their sales figures, so it's difficult to gauge the inroads being made by foreign manufacturers.

The U.S. Census bureau estimates that \$5.3 million worth of U.S. flags were imported from other countries in 2006, mostly from China. That figure has been steady over the past few years. The big exception was in 2001 when \$51.7 million in U.S. flags were brought into the country, most on the heels of the Sept. 11 terrorist attacks.

Sandy Van Leiu, chairman of the Flag Manufacturers Association of America, said the imports are cause for concern even though U.S. companies still dominate the flag market.

"That door is going to keep opening," said Van Leiu, a sixth-generation executive at the family-owned Annin & Co., a 160-year-old business that supplies retailers like Wal-Mart. "It starts small, then it gets big. You're just opening Pandora's box."

To help consumers identify the origin of their flags, the association created a certification program two years ago that bestows a seal-of-approval logo to flags made with domestic fibers and labor.

Whether Minnesota's law violates international trade agreements — and whether anything would be done about it — is an open question.

Under World Trade Organization standards, the U.S. government can't treat foreign products less favorably than those produced within its boundaries, said Peter Morici, a business professor at the University of Maryland and the former chief economist for the U.S. International Trade Commission. How the rules apply to states is debatable, he said.

Morici said a foreign business harmed by the law would have to get its government to take action against the U.S. government. Robert Litan, a senior fellow at the Brookings Institution think tank, said while the likelihood of Minnesota's law sparking a dispute is slim the symbolic message is hard to miss.

"It's symptomatic of an anti-foreign bias moving through the country right now. It would not surprise me if other states copied it," Litan said. "It's hard to oppose politically."

When the bill was debated this spring, some legislators argued it sent the wrong message to close Minnesota's borders to foreign-produced flags.

"That flag should be made throughout the world because it is our message to the world that there is hope for freedom and justice," Republican Rep. Dan Severson said at the time.

The law's sponsor, Democratic Rep. Tom Ruukavina, said the flag deserves extra protection. To celebrate his legislative victory, he plans to hand out 1,000 miniature flags at Fourth of July parades in his district.

"The biggest honor that you can give the flag is that it be made by American workers in the United States of America," he said. "Nothing is more embarrassing to me than a plastic flag made in China. This replica of freedom we so respect should be made in this country."

The new law doesn't spell out a penalty for violators. In Minnesota, the default punishment for prohibited acts is a misdemeanor offense, carrying up to a \$1,000 fine and 90 days in jail.

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The American Legion



★ NATIONAL HEADQUARTERS ★ PO BOX 1055 ★ INDIANAPOLIS, INDIANA 46206-1055 ★
(317) 630-1200 ★ FAX (317) 630-1223 ★ WEBSITE www.legion.org ★

January 16, 2008
46

The Honorable Bob Lynn
State Capitol Room 104
Juneau, AK 99801-1182

Dear Representative Lynn:

Thank you for allowing us to offer comments on Alaska House Bill No. 269 requiring the state of Alaska to procure United States and Alaska flags manufactured in the United States and requiring state buildings and schools to display only United States flags and Alaska flags manufactured in the United States.

The American Legion has a long standing resolution encouraging our membership, the general public, and all local, state and federal agencies to purchase and display only American manufactured United States flags. The resolution also calls upon the United States Congress to enact legislation prohibiting the importation of foreign made United States flags.

On behalf of the 2.7 million members of The American Legion we appreciate your patriotic concern.

Sincerely,

JOSEPH E. CAOQUETTE
Chairman
National Americanism Commission

Cc: Peggy G. Dettori, National Vice Commander, The American Legion
Robert W. Spanogle, National Adjutant, The American Legion
James E. Pisa, Department Commander, The American Legion of Alaska
W. E. Gene Franks, Department Adjutant, The American Legion of Alaska
James L. Van Horn, NEC-man, The American Legion of Alaska
Marty Justis, Director, Americanism and Children & Youth Division
Ron Engel, Deputy Director, Americanism and Children & Youth Division

EIGHTY-EIGHTH NATIONAL CONVENTION
THE AMERICAN LEGION
SALT LAKE CITY, UTAH
AUGUST 29, 30, 31, 2006

RESOLUTION NO: 345

OPPOSE FOREIGN MANUFACTURE OF AMERICAN FLAGS

COMMITTEE: AMERICANISM

Consolidated with Res. No. 290 (MA) - 2006 National Convention

WHEREAS, The Flag of the United States is a uniquely American symbol; and

WHEREAS, The Flag Code of the United States as listed in Title 4, United States Code, Chapter I, subsection 8(j) states that: "The flag represents a living country and is itself considered a living thing"; and

WHEREAS, It has come to our attention that foreign manufacturers are making and importing United States Flags and/or merchandise which violate certain provisions of the United States Flag Code; and

WHEREAS, Resolution 191, 1982 National Convention, Chicago, Illinois resolves that The American Legion promote through its Posts and Departments the purchase of American manufactured goods; now, therefore, be it

RESOLVED, By The American Legion in National Convention assembled in Salt Lake City, Utah, August 29, 30, 31, 2006, That The American Legion encourages its membership, the general public, and all local, state and federal government agencies to purchase and display only American manufactured Flags of the United States; and, be it finally

RESOLVED, That The American Legion seek legislation through the United States Congress to prohibit the importation of foreign made Flags of the United States.



NATIONAL CONFERENCE
of STATE LEGISLATURES

The Forum for America's Ideas

7700 EAST FIRST PLACE DENVER, COLORADO 80230
303-364-7700 FAX: 303-364-7800

States Requiring American Flags to be Made in America
Statutes and 2007 Legislation
September 14, 2007

Statutes

Arizona

Ariz. Rev. Stat. Ann. §15-506

<http://www.azleg.state.az.us/FormatDocument.asp?inDoc=/ars/15/00506.01.htm&Title=15&DocType=ARS>

School districts and charter schools shall: Purchase United States flags that are manufactured in the United States and that are at least two feet by three feet and hardware to appropriately display the United States flag and for grades seven through twelve, purchase a legible copy of the Constitution of the United States and the Bill of Rights that is manufactured in the United States.

Ariz. Rev. Stat. Ann § 15-1445(16)

<http://www.azleg.gov/FormatDocument.asp?inDoc=/ars/15/01445.htm&Title=15&DocType=ARS>

A district board shall . . . Beginning July 1, 2007, purchase United States flags that are manufactured in the United States and that are at least two feet by three feet and hardware to appropriately display the United States flag and purchase a legible copy of the Constitution of the United States and the Bill of Rights that is manufactured in the United States, and display the flags in each classroom in accordance with title 4 of the United States Code and display a legible copy of the Constitution of the United States and the Bill of Rights adjacent to the flag.

Ariz. Rev. Stat. Ann § 15-1626(17)

<http://www.azleg.gov/FormatDocument.asp?inDoc=/ars/15/01626.htm&Title=15&DocType=ARS>

The board shall . . . Beginning July 1, 2007, purchase United States flags for each classroom that are manufactured in the United States and that are at least two feet by three feet and hardware to appropriately display the United States flag and purchase a legible copy of the Constitution of the United States and the Bill of Rights, and display

the flags in each classroom in accordance with title 4 of the United States Code and display a legible copy of the Constitution of the United States and the Bill of Rights adjacent to the flag.

Massachusetts

Annotated Laws of Massachusetts GL ch. 71 § 69

<http://www.mass.gov/legis/laws/mgl/71-69.htm>

This school committee shall provide for each schoolhouse under its control, which is not otherwise supplied, flags of the United States of silk or bunting not less than two feet long, such flags or bunting to be manufactured in the United States, and suitable apparatus for their display as hereinafter provided.

Tennessee

Tenn. Code Ann. § 4-1-301(d)

<http://michie.lexisnexis.com/tennessee/lpext.dll?f=templates&fn=main-h.htm&cp=>

All official flags of the United States, purchased under a state contract, shall be manufactured in the United States.

2007 Legislation

Minnesota

H.F. 122 ~~2007~~ H.F. 122, Chapter No. 135

Signed by governor 05/25/07, Chapter No. 135

(to be codified at Minn. Stat. §325E.65) Effective 01/01/08

Relates to commerce; regulates sales of American flags and related items.

No person in the business of offering goods at retail may sell or offer for sale in this state an American flag unless the flag was manufactured in the United States of America. Up to \$1,000 fine and 90 days in jail (under state law's default punishment for prohibited acts)

New Jersey

A.B. 2939

http://www.njleg.state.nj.us/2006/Bills/A3000/2939_11.PDF

S.B. 2595

http://www.njleg.state.nj.us/2006/Bills/S3000/2595_11.PDF

Requires that any United States or State of New Jersey flag purchased with state funds be manufactured in the United States.

Pennsylvania

H.B. 419

<http://www.legis.state.pa.us/CFDOCS/Legis/PN/Public/btCheck.cfm?txtType=PDF&sessYr=2007&sessInd=0&billBody=H&billTyp=B&billNbr=0419&pn=1269>

Promotes the general welfare and stimulates the economy of the state by requiring that all government agencies purchase only flags manufactured in the United States. Relates to contract requirements for procurement of flags. Imposes a penalty.

This Committee Action was recorded 3-4-08

(7) Date Referred to Committee: January 15, 2008

FURTHER REFERRALS:

Date of Committee Action: _____

The STATE AFFAIRS Committee considered:

HB 269

HOUSE BILL NO. 269

REQUIRE AK/US FLAGS BE MADE IN USA

"An Act requiring the state to procure United States and Alaska flags manufactured in the United States; and requiring state buildings and schools to display only United States and Alaska flags manufactured in the United States."

Recommends it be replaced with [] HCS or [] CS for _____ (_____) For Senate Bills with new title: [] Technical Title [] New Title: HCR _____ [] Same Title [] New Title

- [] attach amendments
[] add new referral to _____ Committee
[] Letter of Intent _____ Committee

List of Abbrev for Depts.: ADM CED COR CRT EED DEC DFG GOV HSS LWF LAW LEG MVA DNR DPS REV DOT UA

Table with 5 columns: List by Dept(s), *FN#, Fiscal, Indet., Zero. Title: NEW FISCAL NOTES. Subtitle: *Assigned by Chief Clerk's Office

Table with 5 columns: List by Dept(s), FN#, Fiscal, Indet., Zero. Title: PREVIOUS FISCAL NOTES

Table with 6 columns: Signing with recommendations, Printed Last Name, DP, DNP, NR, AM. Includes handwritten signatures and names like Johnson, Rosen, Graciano, Coghill, Doll, and Lynn.

LEGAL SERVICES

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STATE OF ALASKA

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Mail Stop 3101

State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

March 3, 2008

SUBJECT: Removing penalties for failure to purchase flags manufactured in the United States (CSHB 269(STA) Work Order No. 25-1013\L)

TO: Representative Bob Lynn
Chair of the House State Affairs Committee
Attn: Nancy Manly

FROM: Dennis C. Bailey *DCB*
Legislative Counsel

The enclosed committee substitute follows your request to remove penalties that may be imposed for failure to purchase flags manufactured in the United States under the provisions of CSHB 269(STA). Please note the following issues.

I was unable to find a statutory penalty for failure to display a flag at school buildings under AS 14.03.130, which is amended by sec. 1, or AS 44.09.030, which is amended by sec. 7 of the bill.

AS 36.30.687 provides a penalty for misrepresentation and fraud in relationship to the procurement code. I did not amend that section because it is not a penalty for failure to purchase a U.S. flag. The text of the section reads as follows:

Sec. 36.30.687. Misrepresentations, fraud, and attempted fraud. (a) A person who makes or uses in support of a contract claim under this chapter, a misrepresentation, or who practices or attempts to practice a fraud, at any stage of proceedings relating to a procurement or contract claim under this chapter

(1) forfeits all claims relating to that procurement or contract; and

(2) is liable to the state for reimbursement of all sums paid on the claim, for all costs attributable to review of the claim, and for a civil penalty equal to the amount by which the claim is misrepresented.

(b) The procurement officer, commissioner or court shall make specific findings of misrepresentation, attempted fraud, or fraud before declaring a forfeiture under (a)(1) of this section.

(c) Suits to recover costs and penalties under (a)(2) of this section must be commenced within six years after the discovery of the misrepresentation, fraud, or attempted fraud.

(d) A person who in a matter relating to a procurement or a

Representative Bob Lynn

March 3, 2008

Page 2

contract claim under this chapter makes a misrepresentation to the state through a trick, scheme, or device is guilty of a class C felony.

(e) In this section, "misrepresentation" means a false or misleading statement of material fact, or conduct intended to deceive or mislead concerning material fact, whether it succeeds in deceiving or misleading.

If you would like to also amend this section, please let me know.

Section 5 is new in this version and makes a conforming amendment.

If I may be of further assistance, please advise.

DCB:lmb
08-047.lmb

Enclosure

Alaska State Legislature

Chairman
State Affairs Committee

Vice-Chairman
Economic Development, Trade & Tourism
Committee

Member
Judiciary Committee
Joint Armed Services Committee

Finance Subcommittees
Corrections
Labor and Workforce Development
Military and Veterans' Affairs
Public Safety



A Communication From
REPRESENTATIVE BOB LYNN
District 31 Anchorage

E-Mail: Representative Bob Lynn@legis.state.ak.us
"Bob Lynn's Alaska Blog" RepBobLynnBlog.com

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Anchorage, AK 99501-2133

Phone: (907) 269-0205
Fax: (907) 269-0207

Changes from Version K to Version L HB 269

Version L amends Version K to remove any unintended penalties of this bill.

1. New Section 3 was inserted to remove penalties in the Election Code that may be imposed for failure to purchase flags manufactured in the United States.
2. Page 2 Line 11 Section 4 is Version K's Section 3. Nothing changed.
3. New Section 5 was inserted to make a conforming amendment.
4. New Section 6 was inserted to remove penalties in the Procurement Code that may be imposed for failure to purchase flags manufactured in the United States.
5. Page 3 Line 18 Section 7 is Version K's Section 4. Nothing changed.
6. Page 3 Line 21 Section 8 is Version K's Section 5. Nothing changed.

Library

Alaska State Legislature

Chairman
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Finance Subcommittees
Corrections
Labor and Workforce Development
Military and Veterans' Affairs
Public Safety



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7/2/2007

Library

25-LS103L
Bailey
3/3/08

CS FOR HOUSE BILL NO. 269(STA)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIFTH LEGISLATURE - SECOND SESSION

BY THE HOUSE STATE AFFAIRS COMMITTEE

Offered:
Referred:

Sponsor(s): REPRESENTATIVES LYNN, Fairclough, Dahlstrom

A BILL

FOR AN ACT ENTITLED

1 "An Act requiring state institutions and public schools to procure United States and
2 Alaska flags manufactured in the United States." *OK*

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 * **Section 1.** AS 14.03.130 is amended by adding a new subsection to read:

5 *OK* (c) The flags purchased for display as required by this section must be
6 manufactured in the United States, as that phrase is defined in AS 36.30.321.

7 * **Sec. 2.** AS 15.15.060(c) is amended to read:

8 (c) The director shall pay the cost of necessary election expenses incurred in
9 securing a place for holding the election, a suitable ballot box, and an adequate
10 *OK* number of voting booths, screens, national flags, and other supplies. The national flag
11 shall be displayed over or near the entrance of each polling place. A flag that is
12 purchased for display as required by this subsection must be manufactured in the
13 United States, as that phrase is defined in AS 36.30.321.

14 * **Sec. 3.** AS 15.56.070(a) is amended to read:

15 new *to remove manufactured phrase*

(a) A person commits the crime of election official misconduct in the first degree if, while an election official, the person

(1) intentionally fails to perform an election duty or knowingly does an unauthorized act with the intent to affect an election or its results; in this subsection, failure to purchase a flag for display that is manufactured in the United States under AS 15.15.060(c) is not considered failure to perform an election duty;

(2) knowingly permits or makes or attempts to make a false count of election returns; or

(3) intentionally conceals, withholds, destroys, or attempts to conceal, withhold, or destroy election returns.

* Sec. 4. AS 36.30 is amended by adding a new section to article 4 to read:

Old Sec. 3 **Sec. 36.30.321. United States manufactured flags.** The state shall procure only United States flags or Alaska flags that are manufactured in the United States. A contract for the procurement of a flag by the state must specify that the flag must be manufactured in the United States. In this section, "manufactured in the United States" means the flag was assembled in facilities in the United States.

* Sec. 5. AS 36.30.640 is amended to read:

Sec. 36.30.640. Causes for debarment or suspension. The causes for debarment or suspension include

(1) conviction for commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of the contract or subcontract;

(2) conviction under state or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or other offense indicating a lack of business integrity or business honesty that currently and seriously affects responsibility as a state contractor;

(3) conviction or civil judgment finding a violation under state or federal antitrust statutes;

(4) violation of contract provisions of a character that is regarded by the commissioner to be so serious as to justify debarment action, such as

(A) knowing failure without good cause to perform in

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accordance with the specifications or within the time limit provided in the contract; or

(B) failure to perform or unsatisfactory performance in accordance with the terms of one or more contracts, except that failure to perform or unsatisfactory performance caused by acts beyond the control of the contractor may not be considered to be a basis for debarment;

(5) for violation of the ethical standards set out in law or regulation;

(6) for a violation of this chapter punishable under AS 36.30.930(a)(2) [AS 36.30.930(2)]; and

(7) any other cause listed in regulations of the commissioner determined to be so serious and compelling as to affect responsibility as a state contractor, including debarment by another governmental entity for a cause listed in the regulations.

* Sec. 6. AS 36.30.930 is amended by adding a new subsection to read:

(b) Notwithstanding the provisions of (a) of this section, a person who fails to procure flags manufactured only in the United States under (a) of this section may not be penalized.

* Sec. 7. AS 44.09.030 is amended by adding a new subsection to read:

old sec. 4 (d) The flags purchased for display under (b) of this section must be manufactured in the United States, as that phrase is defined in AS 36.30.321.

* Sec. 8. The uncodified law of the State of Alaska is amended by adding a new section to read: *old sec. 5*

TRANSITIONAL PROVISIONS. Notwithstanding AS 14.03.130(c), added by sec. 1 of this Act, AS 15.15.060(c), as amended by sec. 2 of this Act, and AS 44.09.030(d), added by sec. 7 of this Act, a flag that was not manufactured in the United States may be displayed under AS 14.03.130, AS 15.15.060, or AS 44.09.030 on or after the effective date of this Act if it was purchased before the effective date of this Act. AS 36.30.321, added by sec. 4 of this Act, applies to purchases of flags on or after the effective date of this Act.

Procurement Code?

Library

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Representative Bob Lynn

March 3, 2008

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DCB:lmb
08-047.lmb

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