

STATE OF NEW YORK

9441

IN SENATE

May 27, 2022

Introduced by Sen. KENNEDY -- read twice and ordered printed, and when printed to be committed to the Committee on Procurement and Contracts

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.

16 (c) The provisions of paragraph (a) of this subdivision shall not
17 apply in any case or category of cases in which the head of such depart-
18 ment or agency determines that:

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

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

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

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

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

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

LBD07974-10-2

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

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

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

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

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

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

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

26 § 3. The general municipal law is amended by adding a new section
27 104-d to read as follows:

28 § 104-d. The New York state buy American salt act. 1. Use of American
29 materials. (a) Notwithstanding any other provision of law, each
30 contract for purchase or procurement made by any department or agency of
31 a political subdivision shall contain a provision that the rock salt, or
32 sodium chloride, used or supplied in the performance of the contract or
33 any subcontract thereto shall be mined or hand harvested in the United
34 States.

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

39 (c) The provisions of paragraph (a) of this subdivision shall not
40 apply in any case or category of cases in which the head of such depart-
41 ment or agency determines that:

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

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

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

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

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

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

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

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

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

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

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

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

22 § 4. The public authorities law is amended by adding a new section
23 2877-a to read as follows:

24 § 2877-a. The New York state buy American salt act. 1. Use of American
25 materials. (a) Notwithstanding any other provision of law, each
26 contract for purchase or procurement made by any public authority shall
27 contain a provision that the rock salt, or sodium chloride, used or
28 supplied in the performance of the contract or any subcontract thereto
29 shall be mined or hand harvested in the United States.

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

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

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

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

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

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

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

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

51 (ii) represented that any rock salt, or sodium chloride product
52 procured in a contract to which this section applies that was not
53 produced in the United States, was produced in the United States; then
54 that person shall be ineligible to receive any contract or subcontract
55 with this state pursuant to the debarment or suspension provisions

1 provided under section one hundred thirty-nine-a of the state finance
2 law.

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

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

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

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

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

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

19 § 12-a. The New York state buy American salt act. 1. Use of American
20 materials. (a) Notwithstanding any other provision of law, each contract
21 for purchase or procurement made by any public authority shall contain a
22 provision that the rock salt, or sodium chloride, used or supplied in
23 the performance of the contract or any subcontract thereto shall be
24 mined or hand harvested in the United States.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12 § 6. Severability. If any provision of this act, or any application of
13 any provision of this act, is held to be invalid, that shall not affect
14 the validity or effectiveness of any other provision of this act, or of
15 any other application of any provision of this act, which can be given
16 effect without that provision or application; and to that end, the
17 provisions and applications of this act are severable.

18 § 7. This act shall take effect immediately.