

(H. B. 3877)

(No. 117)

(Approved July 17, 2008)

AN ACT

To add a subsection (d) to Section 3, to add subsections (o), (p), (q), and (r) to Section 4, add a subsection (l) to Section 6; amend Sections 7 and 8 of Act No. 14 of January 8, 2004, as amended, known as the “Investment in Puerto Rican Industry Act,” in order to include products packed, assembled, produced or manufactured by non-profit organizations that employ blind persons or persons with severe disabilities; in the procurement preference policy for purchases of the Government of Puerto Rico and for other purposes.

STATEMENT OF MOTIVES

The US Census Bureau data for 2006 indicate that twenty-four percent (24%) of the population between 21 and 64 years in Puerto Rico suffers from some kind of disability. Such figure places us above the results obtained for the fifty states of the Nation. On the other hand, said data also indicates that seventy-six percent (76%) of Puerto Ricans, whose ages range from 16 to 64, and who suffer some kind of disability are unemployed.

It is a fact that the employment opportunities available for persons with disabilities are limited and place them at a clear disadvantage with respect to the rest of the population. Among these, blind persons face greater difficulties to find a job.

The truth is that many employers do not promote the inclusion of persons with disabilities in their workforces, particularly blind persons, be it to avoid risks at the workplace or not to incur in an additional financial investment in its operations, or simply because they fail to comply with the

Commonwealth and federal laws in effect that guarantee the rights of this sector of our population, whether blind or persons with severe disabilities. Puerto Rico is not the exception to this social situation.

In consideration to the above, the “Puerto Rico Assistive Technology Program Act,” Act No. 1 [sic] of August 31, 2000, as amended, was approved to establish and develop a program that provides assistive technology equipment and services that would allow persons with disabilities to achieve an independent life and financial self-sufficiency, as well as to provide them useful and efficient tools to be used at the time of competing for a job.

At the federal level, statistics published in the National Federation of the Blind Webpage state that as of 1998, 1.3 million blind persons lived in the United States, of which only thirty percent (30%) was employed. On the other hand, American Foundation for the Blind likewise published that fifty-four percent (54%) of persons with some visual disability, other than blindness, was unemployed at that time.

This legislation seeks to promote greater employment alternatives and opportunities for this sector of our population. It is for this reason that the articles packed, assembled, produced or manufactured by non-profit organizations that employ blind persons or persons with severe disabilities are included as part of the procurement preference policy for purchases of the Government of Puerto Rico and at the same time the economic development of the Island is promoted.

BE IT ENACTED BY THE LEGISLATURE OF PUERTO RICO:

Section 1.- Subsection (d) is hereby added to Section 3 of Act No. 14 of January 8, 2004, as amended, to read as follows:

“Section 3.- Statement of Public Policy

(a) ...

(b) To promote the creation of jobs for blind persons and persons with severe disabilities in the Island, in order to support the enjoyment of equal opportunities, full participation, independent life and financial self-sufficiency among these persons, and allow them to contribute to and become part of the economic development of Puerto Rico.”

Section 2.- Subsections (o), (p), (q), (r), and (s) [sic] are hereby added to Section 4 of Act No. 14 of January 8, 2004, as amended, to read as follows:

“Section 4.- Definitions

For the purposes of this Act, the following words and phrases shall have the meanings set forth hereinbelow:

(a) ...

(o) “Blind Person” means a person whose central visual acuity does not exceed twenty by two hundred (20/200) in the better eye with corrective lenses; or even in the better eye with corrective lenses has a visual acuity of less than twenty by two hundred (20/200), and the widest diameter of his/her visual field is less than twenty (20) degrees.

(p) “Person with a Severe Disability” means a person, other than a blind person, who has a severe physical, mental or sensorial disability of such a nature that limits his/her essential daily life activities and hinders or limits said person’s capacity to obtain a job.

(q) “Non-profit organization that employs blind persons” means an entity organized pursuant to the laws of the Commonwealth of Puerto Rico for the purpose of employing blind persons and that fifty (50) percent of its total workforce is composed of blind persons who, for

seventy-five percent (75%) of the working hours, are engaged in packing, assembling, producing or manufacturing articles in said entity or in the rendering of services, and is certified by the Board to such effects; complies with labor laws in effect and their regulations; and whose net income does not result, in whole or in part, in the benefit of any stockholder or other individual with monetary interest.

(r) “Non-profit organization that employs persons with severe disabilities” means an entity organized pursuant to the laws of the Commonwealth of Puerto Rico for the purpose of employing persons with severe disabilities other than blindness, and that not less than fifty (50) percent of its total workforce is composed of persons with severe disabilities who, during seventy-five percent (75%) of the working hours, are engaged in packing, assembling, producing or manufacturing articles in said entity or in the rendering of services, and is certified by the Board to such effects; complies with labor laws in effect and their regulations; and whose net income does not result, in whole or in part, in the benefit of any stockholder or other individual with monetary interest.”

Section 3.- Subsection (l) is hereby added to Section 6 of Act No. 14 of January 8, 2004, as amended, to read as follows:

“Section 6.- Powers of the Board

(a) ...

(l) Qualify and certify non-profit organizations that employ blind persons or persons with severe disabilities whose products are packed, assembled, produced or manufactured in Puerto Rico pursuant to the maximum investment parameters set forth in this Act.”

Section 4.- Section 7 of Act No. 14 of January 8, 2004, as amended, is hereby amended to read as follows:

“Section 7.- Preferential Policy for Purchases of Government of Puerto Rico

In every purchase of articles or services made by the Government of Puerto Rico, the referred to services or the articles extracted, produced, assembled or packaged in Puerto Rico, or distributed by agents established in Puerto Rico shall be acquired or rendered in Puerto Rico, provided said articles and services meet the specifications, terms and conditions established in the bidding notice or purchase order, and that their price, upon applying the corresponding investment parameter, is the lowest.

It is hereby provided that with respect to the purchases and the contracting of services of all agencies, dependencies, subdivisions, or instrumentalities of the Government of Puerto Rico, each and every one of them shall reserve at least fifteen (15) percent of said purchases and contracting for services rendered in Puerto Rico or articles extracted, produced or manufactured, assembled or packed in Puerto Rico by non-profit organizations that employ blind persons or persons with severe disabilities; or small or medium-sized companies or cooperative-based companies as defined by Regulations.”

Section 5.- Section 8 of Act No. 14 of January 8, 2004, as amended, is hereby amended to read as follows:

“Section 8.- Classification of Articles and Services

The Preference Board shall classify the services rendered in Puerto Rico as well as the articles extracted, produced, assembled or packed in Puerto Rico, or distributed by agents established in Puerto Rico, taking into consideration, when assigning the corresponding investment parameter,

whether the article or service is offered by a company conducting substantial operations in Puerto Rico according to the following factors: the added value in Puerto Rico, the number of jobs, the local payroll, the local capital, the research and development operations in Puerto Rico, and the country of origin of the materials used in the case of the purchase of products. Provided that the Board shall assign the corresponding investment parameter within the following items:

- (1) Articles distributed by agents established in Puerto Rico, up to two (2) percent.
- (2) Articles packed in Puerto Rico, up to three (3) percent.
- (3) Articles assembled in Puerto Rico, up to four (4) percent.
- (4) Articles that constitute Puerto Rican products, up to ten (10) percent.
- (5) Services rendered by small and medium-size companies or cooperative-based companies established in Puerto Rico, up to two (2) percent.

It is further provided, that the Board shall exercise discretion when granting an additional five (5) p+

ercent in special cases of articles and services, in agricultural products and cooperative companies products, through the parameters established by regulations.

However, as to the maximum limits set forth in the preceding subsections (1) to (4), in the case of articles produced, assembled or manufactured in the Municipalities of Vieques and Culebra, or in a non-profit organization that employs blind persons or a non-profit organization that employs persons with severe disabilities, the following maximum limits shall apply:

- (a) In the case of articles packed or services rendered in the Municipalities of Vieques and Culebra, or in a non-profit organization that employs blind persons, up to ten (10) percent, or in a non-profit organization that employs persons with severe disabilities, up to seven (7) percent;
- (b) In the case of articles assembled in the Municipalities of Vieques and Culebra, or in a non-profit organization that employs blind persons, up to fifteen (15) percent, or a non-profit organization that employs persons with severe disabilities, up to twelve (12) percent;
- (c) In the case of articles assembled in the Municipalities of Vieques and Culebra, or in a non-profit organization that employs blind persons, up to thirty (30) percent, or a non-profit organization that employs persons with severe disabilities, up to twenty-five (25) percent;

The Board shall keep a list of said articles duly classified and indicating their class, origin, trademark, shape, dimensions, properties, samples, catalogs and any other information deemed convenient to facilitate its selection in Government purchases.

Provided, that in all agencies, departments, public corporations, and other subdivisions of the Government, the purchase official or purchase administrator shall have the obligation of submitting before the Board on a monthly basis any information regarding auctions and purchases conducted pursuant to this Act.”

Section 6.- Severability

If any article, provision, paragraph, subsection, or part of this Act were ruled unconstitutional by any competent court, it shall be understood that the remainder of its provisions shall maintain their validity and effect.

Section 7.- This Act shall take effect immediately after its approval.

CERTIFICATION

I hereby certify to the Secretary of State that the following Act No. 117 (H.B. 3877) of the 7th Session of the 15th Legislature of Puerto Rico:

AN ACT to add a subsection (d) to Section 3, to add subsections (o), (p), (q), and (r) to Section 4, add a subsection (l) to Section 6; amend Sections 7 and 8 of Act No. 14 of January 8, 2004, as amended, known as the “Investment in Puerto Rican Industry Act,” in order to include products packed, assembled, produced or manufactured by non-profit organizations that employ blind persons or persons with severe disabilities; in the procurement preference policy for purchases of the Government of Puerto Rico and for other purposes,

has been translated from Spanish to English and that the English version is correct.

In San Juan, Puerto Rico, today 15th of October of 2008.

Francisco J. Domenech
Director