



SPONSOR: Sen. Townsend & Sen. Walsh & Rep. Osienski &
Rep. K. Williams

DELAWARE STATE SENATE
152nd GENERAL ASSEMBLY

SENATE SUBSTITUTE NO. 1
FOR
SENATE BILL NO. 307

AN ACT TO AMEND TITLE 19 AND TITLE 29 RELATING TO PREVAILING WAGE AND CUSTOM
FABRICATION.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Section 1. Amend § 3602, Title 19 of the Delaware Code by making deletions as shown by strike through and
2 insertions as shown by underline as follows and by redesignating accordingly:

3 ~~§ 3602. Definitions~~ § 3602. Definitions.

4 For purposes of this chapter:

5 ~~(3) "Custom fabrication" means the fabrication of plumbing, heating, cooling, ventilation, or exhaust duct systems~~
6 ~~and mechanical insulation.~~

7 (11) "Worker" means a laborer, mechanic, skilled, or semi-skilled laborer and apprentices or helpers employed by
8 any contractor or subcontractor and engaged in the performance of construction services or maintenance in the State,
9 regardless of whether the work becomes a component part of the construction or maintenance. "Worker" does not mean a
10 material supplier or employees of a material supplier. A contractor or subcontractor engaged in ~~custom fabrication~~ the
11 fabrication of plumbing, heating, cooling, ventilation, or exhaust duct systems and mechanical insulation is not a material
12 supplier for purposes of this section.

13 Section 2. Amend § 6902, Title 29 of the Delaware Code by making deletions as shown by strike through and
14 insertions as shown by underline as follows and by redesignating accordingly:

15 § 6902. Definitions [For application of this section, see 82 Del. Laws, c. 36, § 3].

16 For purposes of this chapter:

17 (8) "Custom fabrication" means the offsite fabrication, assembly, or other production of nonstandard goods or
18 materials, including components, ~~fixtures~~ fixtures, or parts thereof, specifically for a public works project. Such goods and
19 materials shall include those used in only the following trades or systems:

a. Plumbing or pipe fitting systems, including heating, ventilating, air-conditioning, refrigeration systems, sheet metal or other duct systems.

b. Electrical systems.

c. Mechanical insulation work.

d. Ornamental iron work.

e. Commercial signage that does not attempt or appear to direct the movement of traffic on highways or roadways or interfere with, imitate, or resemble any official traffic sign, signal or device.

() “Non-standard goods or materials” means goods or materials manufactured or pre-fabricated to specifications for a particular project or for one or a limited number of customers.

Section 3. Amend § 6960, Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows and by redesignating accordingly:

§ 6960. Prevailing wage requirements.

(b) Every contract based upon these specifications must contain a stipulation that the employer must pay all mechanics and laborers employed directly upon the site of the work ~~or engaged in any custom fabrication work, regardless of where the work is performed~~, unconditionally and not less often than once a week and without subsequent deduction or rebate on any account, the full amounts accrued at time of payment, computed at wage rates not less than those stated in the specifications, regardless of any contractual relationship which may be alleged to exist between the employer and such laborers and mechanics. The specifications must further stipulate that the scale of wages to be paid must be posted by the employer in a prominent and easily accessible place at the site of the work, and that there may be withheld from the employer so much of accrued payments as may be considered necessary by the Department of Labor to pay to laborers and mechanics employed by the employer the difference between the rates of wages required by the contract to be paid laborers and mechanics on the work and rates of wages received by such laborers and mechanics to be remitted to the Department of Labor for distribution upon resolution of any claims.

Section 4. Amend § 6960, Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows and by redesignating accordingly:

§ 6960. Prevailing wage requirements.

(b) Every contract based upon these specifications must contain a stipulation that the employer must pay all mechanics and laborers employed directly upon the site of the work or engaged in any custom fabrication work, regardless of where the work is performed, unconditionally and not less often than once a week and without subsequent deduction or rebate on any account, the full amounts accrued at time of payment, computed at wage rates not less than those stated in the

50 specifications, regardless of any contractual relationship which may be alleged to exist between the employer and such
51 laborers and mechanics. The specifications must further stipulate that the scale of wages to be paid must be posted by the
52 employer in a prominent and easily accessible place at the site of the work, and that there may be withheld from the
53 employer so much of accrued payments as may be considered necessary by the Department of Labor to pay to laborers and
54 mechanics employed by the employer the difference between the rates of wages required by the contract to be paid laborers
55 and mechanics on the work and rates of wages received by such laborers and mechanics to be remitted to the Department of
56 Labor for distribution upon resolution of any claims.

57 Section 5. Section 3 of this Act takes effect immediately.

58 Section 6. Sections 1, 2, and 4 of this Act take effect on January 1, 2025.

SYNOPSIS

This substitute bill for Senate Bill No. 307 clarifies the meaning of custom fabrication as first defined in Senate Substitute 1 for Senate Bill No. 102 in the 152nd General Assembly. That substitute bill modified the relationship between custom fabrication and the prevailing wage.

This substitute removes custom fabrication as a term in Title 19 to avoid confusion of the term being defined differently in two different titles.

Section 3 of this substitute bill becomes effective immediately.

Sections 1, 2 and 4 of this substitute bill become effective January 1, 2025.

Author: Senator Townsend