

HOUSE BILL 191

P2

(3lr1899)

ENROLLED BILL

— *Health and Government Operations/Education, Health, and Environmental Affairs* —

Introduced by **Delegates Mitchell, Bromwell, Afzali, Branch, Braveboy, Cardin, Carter, Glenn, Pena–Melnyk, B. Robinson, Smigiel, Stukes, Walker, M. Washington, ~~and Wilson~~ Wilson, Hammen, Pendergrass, Costa, Cullison, Donoghue, Elliott, Frank, Hubbard, Kach, A. Kelly, Kipke, Krebs, Morhaim, Murphy, Nathan–Pulliam, Ready, Reznik, Tarrant, and V. Turner**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

_____ day of _____ at _____ o'clock, _____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **Procurement – ~~Maryland Buy American Steel and~~ Purchase of American**
3 **Manufactured Goods Act**

4 FOR the purpose of altering the ~~Maryland Buy American Steel Act to include~~
5 ~~American manufactured goods; requiring a public body to require that certain~~
6 ~~contractors and subcontractors use or supply only American manufactured~~
7 ~~goods under certain procurements; defining a term; providing for the application~~
8 ~~of this Act; requiring a public body to give a certain notice; requiring the Board~~
9 ~~of Public Works to adopt certain regulations regarding the granting of a~~
10 ~~preference for the use of American manufactured goods; and generally relating~~

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

Italics indicate opposite chamber/conference committee amendments.



~~to the Maryland Buy American Steel and Manufactured Goods Act State procurement law to grant a preference for American manufactured goods in State contracting; requiring a public body to require that certain contractors and subcontractors use or supply American manufactured goods under certain procurements; providing for the application and construction of this Act; requiring a public body to give a certain notice; requiring the Board of Public Works to adopt certain regulations regarding the granting of a preference for the use of American manufactured goods; defining certain terms; and generally relating to the purchase of American manufactured goods.~~

~~BY repealing and reenacting, with amendments,
Article – State Finance and Procurement
Section 17-301, 17-303, 17-304, and 17-306 to be under the amended subtitle
“Subtitle 3. Buy American Procurement for Public Works”
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)~~

~~BY repealing and reenacting, without amendments, adding to
Article – State Finance and Procurement
Section 17-302 and 17-305 14-416
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)~~

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – State Finance and Procurement

~~Subtitle 3. [Steel] BUY AMERICAN Procurement for Public Works.~~

~~17-301.~~

~~(a) In this subtitle the following words have the meanings indicated.~~

~~(b) “AMERICAN MANUFACTURED GOODS” MEANS GOODS FOR WHICH:~~

~~(1) ALL OF THE MANUFACTURING PROCESSES FOR THE FINAL PRODUCT TAKE PLACE IN THE UNITED STATES; AND~~

~~(2) ALL OF THE COMPONENTS OF THE FINAL PRODUCT ORIGINATE IN THE UNITED STATES ON ACCOUNT OF THE MANUFACTURING PROCESSES FOR THE COMPONENT, REGARDLESS OF THE ORIGIN OF THE SUBCOMPONENTS.~~

~~(b)(c) “American steel product” means a product that is:~~

1 ~~(1) produced from steel made in any state by the open hearth, basic~~
2 ~~oxygen, electric furnace, Bessemer, or other steel making process; and~~

3 ~~(2) rolled, forged, drawn, cast, extruded, or otherwise similarly~~
4 ~~processed.~~

5 ~~[(c)] (D) "Public body" means:~~

6 ~~(1) the State;~~

7 ~~(2) a unit of the State government; or~~

8 ~~(3) a county, municipal corporation, school or conservation district, or~~
9 ~~other governmental entity that, by State law, awards contracts for public construction~~
10 ~~or other public work.~~

11 ~~17-302.~~

12 ~~The provisions of this subtitle do not apply if they conflict with a federal law or~~
13 ~~grant affecting a contract.~~

14 ~~17-303.~~

15 ~~(a) Except as otherwise provided in this subtitle, a public body shall require~~
16 ~~a contractor or subcontractor to use or supply only American steel products AND~~
17 ~~AMERICAN MANUFACTURED GOODS in the performance of a contract for:~~

18 ~~(1) constructing or maintaining a public work; or~~

19 ~~(2) buying or manufacturing machinery or equipment that:~~

20 ~~(i) is composed of at least 10,000 pounds of steel products; and~~

21 ~~(ii) is to be installed at a public work site.~~

22 ~~(b) This section does not apply if the head of a public body determines that:~~

23 ~~(1) the price of American steel products OR AMERICAN~~
24 ~~MANUFACTURED GOODS is not reasonable, as provided in § 17-304 of this subtitle;~~

25 ~~(2) American steel products OR AMERICAN MANUFACTURED GOODS~~
26 ~~are not produced in sufficient quantity to meet the requirements of the contract; or~~

27 ~~(3) the purchase of American steel products OR AMERICAN~~
28 ~~MANUFACTURED GOODS would be inconsistent with the public interest.~~

1 ~~(e) The public body shall give notice of the requirement for American steel~~
2 ~~products AND AMERICAN MANUFACTURED GOODS in the invitation for bids or~~
3 ~~request for proposals.~~

4 ~~17-304.~~

5 ~~The Board shall adopt regulations, in accordance with Title 10, Subtitle 1 of the~~
6 ~~State Government Article, stating that a bid or offered price of an American steel~~
7 ~~product OR AN AMERICAN MANUFACTURED GOOD shall be considered reasonable if~~
8 ~~it does not exceed the sum of the bid or offered price of a similar steel product OR~~
9 ~~MANUFACTURED GOOD of foreign origin, including duty, plus:~~

10 ~~(1) 20% of that bid or offered price; or~~

11 ~~(2) 30% of that bid or offered price if the steel product OR~~
12 ~~MANUFACTURED GOOD is produced in a "substantial labor surplus area" as defined~~
13 ~~by the United States Department of Labor.~~

14 ~~17-305.~~

15 ~~(a) Unless a public body is satisfied that a person has completed the work in~~
16 ~~full compliance with §§ 17-303 and 17-304 of this subtitle, the public body may not~~
17 ~~pay or authorize a payment for work subject to §§ 17-303 and 17-304 of this subtitle~~
18 ~~to a person under a contract.~~

19 ~~(b) If a person receives a payment that should not have been made under~~
20 ~~subsection (a) of this section, the Attorney General may recover the portion of the~~
21 ~~payment that is attributable to work that does not comply with §§ 17-303 and 17-304~~
22 ~~of this subtitle directly from the person who did not comply with §§ 17-303 and~~
23 ~~17-304 of this subtitle by filing a complaint in the circuit court for the county where~~
24 ~~the contract was executed or performed.~~

25 ~~17-306.~~

26 ~~This subtitle may be cited as the "Maryland Buy American Steel AND~~
27 ~~MANUFACTURED GOODS Act".~~

28 14-416.

29 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE
30 MEANINGS INDICATED.

31 (2) "AMERICAN MANUFACTURED GOODS" MEANS GOODS THAT:

32 (I) ARE MANUFACTURED IN THE UNITED STATES; OR

1 **(II) ARE ASSEMBLED IN THE UNITED STATES.**

2 **(3) (I) "EMERGENCY LIFE SAFETY AND PROPERTY SAFETY**
 3 **GOODS" MEANS ANY GOODS WHEN PROVIDED FOR INSTALLATION IN, AS PART**
 4 **OF, OR AS AN ADDITION TO A SYSTEM DESIGNED TO:**

5 **1. PREVENT, RESPOND TO, ALERT REGARDING,**
 6 **SUPPRESS, CONTROL, OR EXTINGUISH AN EMERGENCY OR THE CAUSE OF AN**
 7 **EMERGENCY THAT THREATENS LIFE OR PROPERTY; OR**

8 **2. ASSIST IN EVACUATION IN THE EVENT OF AN**
 9 **EMERGENCY THAT THREATENS LIFE OR PROPERTY.**

10 **(II) "EMERGENCY LIFE SAFETY AND PROPERTY SAFETY**
 11 **GOODS" INCLUDES:**

12 **1. SYSTEMS OR ITEMS FOR OR RELATING TO:**

13 **~~1.~~ A. FIRE ALARMS;**

14 **~~2.~~ B. FIRE SPRINKLERS;**

15 **~~3.~~ C. FIRE SUPPRESSION;**

16 **~~4.~~ D. FIRE EXTINGUISHING;**

17 **~~5.~~ E. SECURITY;**

18 **~~6.~~ F. GAS DETECTION;**

19 **~~7.~~ G. INTRUSION DETECTION;**

20 **~~8.~~ H. ACCESS CONTROL;**

21 **~~9.~~ I. VIDEO SURVEILLANCE AND RECORDING;**

22 **~~10.~~ J. MASS NOTIFICATION;**

23 **~~11.~~ K. PUBLIC ADDRESS;**

24 **~~12.~~ L. EMERGENCY LIGHTING;**

25 **~~13.~~ M. PATIENT WANDERING;**

26 **~~14.~~ N. INFANT TAGGING; AND**

1 ~~15.~~ O. NURSE CALL; AND

2 2. INFORMATION TECHNOLOGIES AND
3 TELECOMMUNICATIONS PRODUCTS AND TECHNOLOGIES THAT ARE USED FOR
4 THE PURPOSES LISTED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH.

5 (4) “PUBLIC BODY” MEANS:

6 (I) A UNIT;

7 (II) A COUNTY;

8 (III) A MUNICIPALITY IN THE STATE;

9 (IV) A SCHOOL DISTRICT IN THE STATE; OR

10 (V) A SPECIAL DISTRICT IN THE STATE.

11 (B) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, A
12 PUBLIC BODY SHALL REQUIRE A CONTRACTOR OR SUBCONTRACTOR TO USE OR
13 SUPPLY AMERICAN MANUFACTURED GOODS IN THE PERFORMANCE OF A
14 CONTRACT FOR:

15 (1) CONSTRUCTING OR MAINTAINING A PUBLIC WORK; OR

16 (2) BUYING OR MANUFACTURING MACHINERY OR EQUIPMENT
17 THAT IS TO BE INSTALLED AT A PUBLIC WORK SITE.

18 (C) THIS SECTION DOES NOT APPLY:

19 (1) IF THE HEAD OF A PUBLIC BODY DETERMINES THAT:

20 (I) THE PRICE OF THE AMERICAN MANUFACTURED GOODS
21 EXCEEDS THE PRICE OF A SIMILAR MANUFACTURED GOOD THAT IS NOT
22 MANUFACTURED IN THE UNITED STATES BY AN UNREASONABLE AMOUNT;

23 (II) THE ITEM OR A SIMILAR ITEM IS NOT MANUFACTURED
24 OR AVAILABLE FOR PURCHASE IN THE UNITED STATES IN REASONABLY
25 AVAILABLE QUANTITIES;

26 (III) THE QUALITY OF THE ITEM OR A SIMILAR ITEM
27 MANUFACTURED IN THE UNITED STATES IS SUBSTANTIALLY LESS THAN THE

1 QUALITY OF A COMPARABLY PRICED, SIMILAR, AND AVAILABLE ITEM THAT IS
2 NOT MANUFACTURED IN THE UNITED STATES; OR

3 (IV) THE PROCUREMENT OF A MANUFACTURED GOOD
4 WOULD BE INCONSISTENT WITH THE PUBLIC INTEREST; OR

5 (2) TO EMERGENCY LIFE SAFETY AND PROPERTY SAFETY GOODS.

6 (D) THE BOARD OF PUBLIC WORKS SHALL ADOPT REGULATIONS TO
7 DEFINE THE FOLLOWING TERMS FOR THE PURPOSES OF THIS SECTION:

8 (1) "REASONABLY AVAILABLE";

9 (2) "UNREASONABLE AMOUNT"; AND

10 (3) "SUBSTANTIALLY LESS".

11 SECTION 2. AND BE IT FURTHER ENACTED, That:

12 (1) This Act shall be applied in a manner consistent with the State's
13 obligations under any applicable international agreement to which the State is bound;
14 and

15 (2) This Act may not be construed to amend, alter, or impair any
16 obligation imposed under Title 17, Subtitle 3 of the State Finance and Procurement
17 Article.

18 SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take
19 effect October 1, 2013.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.