

# SENATE BILL 47

P2

(3lr0401)

## ENROLLED BILL

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

Introduced by ~~Senator Young~~ Senators Young, Forehand, Garagiola, Klausmeier, Madaleno, Montgomery, Stone, Colburn, Benson, Dyson, Manno, Conway, Rosapepe, Ferguson, Jennings, and Simonaire

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.

\_\_\_\_\_  
President.

### 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~~  
11 ~~to the Maryland Buy American Steel and Manufactured Goods Act~~ State  
12 procurement law to grant a preference for American manufactured goods in

---

#### 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.*



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

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

3           ~~[(e)] (D)~~   ~~“Public body” means:~~

4           (1)   ~~the State;~~

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

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

9   ~~17-302.~~

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

12   ~~17-303.~~

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

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

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

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

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

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

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

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

25                   (3)   ~~the purchase of American steel products OR AMERICAN~~  
26 ~~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**

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

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

(4) "PUBLIC BODY" MEANS:

(I) A UNIT;

(II) A COUNTY;

(III) A MUNICIPALITY IN THE STATE;

(IV) A SCHOOL DISTRICT IN THE STATE; OR

(V) A SPECIAL DISTRICT IN THE STATE.

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

(1) CONSTRUCTING OR MAINTAINING A PUBLIC WORK; OR

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

(C) THIS SECTION DOES NOT APPLY:

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

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

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

(III) THE QUALITY OF THE ITEM OR A SIMILAR ITEM 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.

\_\_\_\_\_  
President of the Senate.

\_\_\_\_\_  
Speaker of the House of Delegates.