



EXECUTIVE CHAMBERS  
HONOLULU

LINDA LINGLE  
GOVERNOR

GOV. MSG. NO. 830

July 11, 2006

The Honorable Robert Bunda, President  
and Members of the Senate  
Twenty-Third State Legislature  
State Capitol, Room 003  
Honolulu, Hawaii 96813

Dear Mr. President and Members of the Senate:

I am transmitting herewith HB2199 HD2 SD1 CD1, without my approval, and with the statement of objections relating to the measure.

HB2199 HD2 SD1 CD1

A BILL FOR AN ACT RELATING TO  
INTERNATIONAL TRADE AGREEMENT.

Sincerely,

A handwritten signature in black ink, appearing to read "Linda Lingle".

LINDA LINGLE

VETO

HOUSE OF REPRESENTATIVES  
TWENTY-THIRD LEGISLATURE, 2006  
STATE OF HAWAII

H.B. NO. 2199  
H.D. 2  
S.D. 1  
C.D. 1

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## A BILL FOR AN ACT

RELATING TO INTERNATIONAL TRADE AGREEMENT.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The legislature finds that a number of today's  
2 international free trade agreements contain policy obligations  
3 and restrictions that would take precedence over state and local  
4 government provisions relating to state purchasing laws and  
5 preferences. These trade agreements may undermine state and  
6 local laws relating to requirements that a product contain a  
7 certain minimum amount of recycled material. They may also  
8 undermine state laws that would discourage the off-shoring of  
9 jobs or encourage the purchase of locally-produced goods and  
10 services.

11           However, because the expenditure of state tax dollars is an  
12 intrinsic function of state government, the federal government  
13 has refrained from unilaterally binding states to the  
14 procurement provisions in international trade agreements.  
15 Instead, the United States Trade Representative has sent out  
16 correspondences to all the states' governors asking that the  
17 governors voluntarily bind their states to comply with  
18 procurement rules to be included in various new international



1 trade agreements now being negotiated. The legislature is  
2 informed that Hawaii governors, in this manner, have bound the  
3 State to procurement provisions contained in the World Trade  
4 Organization, the United States-Chile Free Trade Agreement, the  
5 United States-Singapore Free Trade Agreement, the Moroccan Free  
6 Trade Agreement, and the United States-Australia Free Trade  
7 Agreement. The provisions contained in these agreements may  
8 again undermine provisions of the State's public procurement  
9 code and other state preference and set-aside policies  
10 established to promote and protect various sectors and groups of  
11 our local economy. However, questions relating to the State's  
12 public procurement code or decisions relating to state  
13 preference and set-aside policies are within the legislative  
14 domain and should require legislative action.

15 The purpose of this Act is to prohibit the future binding  
16 of the State to government procurement rules contained in an  
17 international trade agreement without legislative action.

18 SECTION 2. The Hawaii Revised Statutes is amended by  
19 adding a new chapter to be appropriately designated and to read  
20 as follows:

21 "CHAPTER

22 INTERNATIONAL TRADE AGREEMENTS



1       **§ -1 Definitions.** As used in this chapter:

2       "International trade agreement" means a trade agreement or  
3 memorandum of agreement between the United States government and  
4 a foreign nation, whether bilateral, multilateral, global, or  
5 regional, to which the State, at the request of the United  
6 States government, is a covered procuring entity; provided the  
7 term shall not include a trade agreement or memoranda of  
8 agreement:

9       (1) Between the State and a foreign nation or its sub-  
10       national entity to which the United States government  
11       is not a party; or

12       (2) Between a county and a foreign nation or its sub-  
13       national entity to which the United States government  
14       is not a party.

15       "Procurement" means any provision of chapter 103D.

16       **§ -2 International procurement rules, legislative**  
17 **action.** Any international trade agreement entered into by the  
18 President of the United States that contains provisions relating  
19 in any manner to procurement by the states shall not be valid as  
20 to those procurement provisions as it applies to this state,  
21 unless the legislature by a simple majority vote on a concurrent  
22 resolution approves of those procurement provisions.



1           §   -3 **Prior agreements before Act.** Any international  
2 trade agreement entered into by the President of the United  
3 States, which contains provisions relating in any manner to  
4 procurement by the states, and to which the governor has  
5 signaled agreement to those procurement provisions prior to the  
6 effective date of this Act shall remain valid."

7           SECTION 3. The revisor of statutes will remain cognizant  
8 of the obligations of the State specified in international trade  
9 agreements to which the State is a consenting party and annotate  
10 these statutes in regards to these obligations, as deemed  
11 necessary.

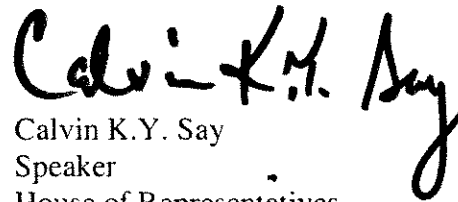
12           SECTION 4. This Act shall take effect upon its approval.



THE HOUSE OF REPRESENTATIVES OF THE STATE OF HAWAII

Date: May 2, 2006  
Honolulu, Hawaii

We hereby certify that the foregoing Bill on this day passed Final Reading in the House of Representatives of the Twenty-Third Legislature of the State of Hawaii, Regular Session of 2006.



Calvin K.Y. Say  
Speaker  
House of Representatives



Patricia Mau-Shimizu  
Chief Clerk  
House of Representatives

THE SENATE OF THE STATE OF HAWAII

Date: May 2, 2006  
Honolulu, Hawaii

We hereby certify that the foregoing Bill on this day passed Final Reading in the Senate of the Twenty-Third Legislature of the State of Hawaii, Regular Session of 2006.



Robert Bunda  
President of the Senate



Paul Kawaguchi  
Clerk of the Senate

P R O C L A M A T I O N

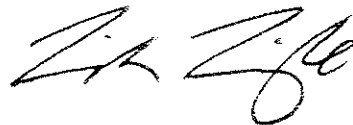
WHEREAS, under Section 16 of Article III of the Constitution of the State of Hawaii, the Governor is required to give notice, by a proclamation, of the Governor's plan to return with the Governor's objections any bill presented to the Governor less than ten days before adjournment sine die or presented to the Governor after adjournment sine die of the Legislature; and

WHEREAS, House Bill No. 2199, entitled "A Bill for an Act Relating to International Trade Agreement," passed by the Legislature, was presented to the Governor within the aforementioned period; and

WHEREAS, House Bill No. 2199 is unacceptable to the Governor of the State of Hawaii;

NOW, THEREFORE, I, LINDA LINGLE, Governor of the State of Hawaii, do hereby issue this proclamation, pursuant to the provisions of Section 16 of Article III of the Constitution of the State of Hawaii, giving notice of my plan to return House Bill No. 2199 with my objections thereon to the Legislature as provided by said Section 16 of Article III of the Constitution.

DONE at the State Capitol, Honolulu,  
State of Hawaii, this 26th  
day of June, 2006.



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LINDA LINGLE  
Governor of Hawaii

EXECUTIVE CHAMBERS

HONOLULU

July 11, 2006

STATEMENT OF OBJECTIONS TO HOUSE BILL NO. 2199

Honorable Members  
Twenty-Third Legislature  
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, House Bill No. 2199, entitled "A Bill for an Act Relating to International Trade Agreement."

The purpose of this bill is to provide that procurement provisions in international trade agreements shall not be valid as applied to the State unless the Legislature votes to approve those procurement provisions. Certain existing international trade agreements that contain procurement provisions requested the individual states to consent to be bound to the agreements. In the past, governors of Hawaii had given the State's consent. This bill henceforth requires legislative action to give that consent.

This bill is objectionable for the following reasons. First, the federal government's requests to the states to consent to be bound to international trade agreements frequently come with short notices and specific deadlines. House Bill No. 2199 does not address how the State will timely respond to these deadlines when the Legislature is not in session.

Second, the timing of this bill raises the question why the Legislature did not object to the ability of prior governors to bind the State to such international trade agreements but does not support this authority for the existing Governor.

Third, the procurement provisions of these international trade agreements are usually reciprocal. If the Legislature cannot or does not act in time to commit the State to these reciprocal agreements, there may be serious consequences for the conduct of business in Hawaii. The Department of



STATEMENT OF OBJECTIONS  
HOUSE BILL NO. 2199  
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Accounting and General Services believes, and I agree, that the Legislature's involvement in the review of these international trade agreements could result in foreign companies not conducting business in Hawaii and Hawaii companies being prevented from conducting business in other countries.

For the foregoing reasons, I am returning House Bill No. 2199 without my approval.

Respectfully,

A handwritten signature in black ink, appearing to read "Linda Lingle", written in a cursive style.

LINDA LINGLE  
Governor of Hawaii