
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 set up to
10 promote and protect various sectors and groups of our local
11 economy. However, questions relating to the State's public
12 procurement code or decisions relating to state preference and
13 set-aside policies are within the legislative domain and should
14 require legislative action.

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

18 SECTION 2. Chapter 103D, Hawaii Revised Statutes, is
19 amended by adding a new section to be appropriately designated
20 and to read as follows:

21 **"§103D- International trade agreement; state consent.**

22 (a) To the extent that consent by the State is allowed by an



1 international trade agreement relating to procurement, or any of
2 its provisions, annexes, side letters or any attached or
3 subsequently attached side letter or addenda relating to
4 procurement, the consent of the State shall be given only by
5 enactment of a law.

6 (b) For the purposes of this section:

7 "International trade agreement" means a trade agreement
8 between the federal government and a foreign country or
9 countries, either in a bilateral, multilateral, regional, or
10 global forum, including agreements under the Agreement on
11 Government Procurement and General Agreement on Trade in
12 Services under the General Agreement on Tariffs and Trade of the
13 World Trade Organization; provided that "international trade
14 agreement" shall not include memoranda of agreement between:

15 (1) The State and any foreign country or a foreign
16 country's sub-national entity to which the United
17 States is not a party; or

18 (2) Any of the counties and any foreign country or a
19 foreign country's sub-national entity to which the
20 United States is not a party."

21 SECTION 3. Any consent that a state official, including the
22 governor, has given for the State to be bound by the government



1 procurement rules of any international trade agreement on or
2 before the effective date of this Act is declared invalid.

3 SECTION 4. New statutory material is underscored.

4 SECTION 5. This Act shall take effect on January 1, 2096.



HB 2199
HD 2

Report Title:

International Trade Agreement

Description:

Provides state protocol for international trade agreements.
(HB2199 HD2)

HB2199 HD2 HMS 2006-2457

