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# A BILL FOR AN ACT

RELATING TO INTERNATIONAL TRADE AGREEMENT.

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**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.



HB 2199 HD2 SDI

CD1

**Report Title:**

Hawaii Public Procurement Code; International Trade Agreements

**Description:**

Prohibits state officials from binding the State to government procurement rules of an international trade agreement without legislative action. (HB2199 CD1)

