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# A BILL FOR AN ACT

RELATING TO PUBLIC WORKS.

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

1           SECTION 1. The purpose of this Act is to establish a  
2 preference for the procurement of iron, steel, and manufactured  
3 goods produced in the United States in all contracts for the  
4 construction, reconstruction, repair, improvement, or  
5 maintenance of public works in the State.

6           SECTION 2. The Hawaii Revised Statutes is amended by  
7 adding a new chapter to be appropriately designated and to read  
8 as follows:

9   **"CHAPTER**

10   **BUY AMERICAN ACT**

11           § -1 **Short title.** This chapter shall be known and may  
12 be cited as the Hawaii Buy American Act.

13           § -2 **Definitions.** For the purposes of this chapter,  
14 unless the context otherwise requires:

15           "Manufactured" means:

16           (1) In the case of an iron or steel product, all  
17           manufacturing shall take place in the United States,



- 1           except metallurgical processes involving the  
2           refinement of steel additives; and
- 3           (2) In the case of a manufactured good, a good shall be  
4           considered manufactured in the United States if:
- 5           (A) All the manufacturing processes for the product  
6           take place in the United States; and
- 7           (B) All of the components of the product originated  
8           in the United States. A component shall be  
9           considered to have originated in the United  
10          States if all the manufacturing processes of the  
11          component take place in the United States,  
12          regardless of the origin of its subcomponents.

13          "Public agency" means the departments, agencies, boards,  
14          commissions, and institutions of the State, and all units and  
15          political subdivisions thereof, including local school  
16          districts. The term also includes the judiciary and the office  
17          of Hawaiian affairs.

18          "Public building" and "public work" mean any structure,  
19          building, highway, waterway, street, bridge, transit system,  
20          airport, school, or other betterment, work, or improvement,  
21          whether of a permanent or temporary nature and whether for  
22          governmental or proprietary use. The terms include, but shall



1 not limited to, any railway, street railway, subway, elevated  
2 and monorail passenger or passenger and rail rolling stock,  
3 including self-propelled and gallery cars, locomotives,  
4 passenger buses and wires, poles and equipment for the  
5 electrification of any of the rails, tracks and roadbeds,  
6 guideways, elevated structures, buildings, stations, terminals,  
7 docks, shelters, and parking areas for use in connection with a  
8 transit system, and repairs to any of the foregoing.

9       §   -3 Use of American materials. (a) Notwithstanding  
10 any other provision of law, each contract for the construction,  
11 reconstruction, alteration, repair, improvement, or maintenance  
12 of a public building or public work entered into by a public  
13 agency shall contain a provision that the iron, steel, and  
14 manufactured goods used or supplied in the performance of the  
15 contract or any subcontract thereto shall be manufactured in the  
16 United States.

17       (b) Subsection (a) shall not apply where the director or  
18 department head of a public agency finds that:

19       (1) Its application would be inconsistent with the public  
20 interest;

21       (2) Such materials and products are not produced in the  
22 United States in quantities that are:



- 1 (A) Sufficient;
- 2 (B) Reasonably available; and
- 3 (C) Of a satisfactory quality; or
- 4 (3) Inclusion of domestic material will increase the cost
- 5 of the overall project contract by more than twenty-
- 6 five per cent.
- 7 (c) If the director or department head of a public agency
- 8 determines that it is necessary to waive the application of
- 9 subsection (a), based upon a finding under subsection (b), the
- 10 director or department head of the public agency, before the
- 11 date on which the finding takes effect:
  - 12 (1) Pursuant to section 1-28.5(b), shall publish a
  - 13 detailed written justification as to why the waiver is
  - 14 needed;
  - 15 (2) Shall consider all comments received during the
  - 16 comment period in evaluating the waiver request; and
  - 17 (3) Shall provide notice of the finding and an opportunity
  - 18 for public comment on the finding for a reasonable
  - 19 period of time, not to exceed fifteen days.
  - 20 (d) It shall be a violation of this chapter for any person
  - 21 to:

- 1           (1) Affix a label bearing a "Made in America" inscription,  
2                    or any inscription with the same meaning, to any  
3                    product used in projects to which this chapter  
4                    applies, sold in or shipped to the United States, that  
5                    was not manufactured in the United States; or
- 6           (2) Represent that any product used in projects to which  
7                    this chapter applies, sold in or shipped to the United  
8                    States, was manufactured in the United States;  
9                    provided that the product was not actually produced in  
10                  the United States.

11           Any person determined to have committed a violation under  
12 paragraph (1) or (2), by a court or federal or state agency,  
13 shall be ineligible to receive any contract or subcontract with  
14 the State or any political subdivision of the State.

15           (e) Subsection (b) shall not apply to products produced in  
16 a foreign country; provided that the executive head of a public  
17 agency, in consultation with the United States Trade  
18 Representative, determines that:

- 19           (1) A foreign country is a party to an agreement with the  
20                    United States and, pursuant to that agreement, the  
21                    head of an agency of the United States has waived the  
22                    requirements of this chapter; and



1           (2) The foreign country has violated the terms of the  
2           agreement by discriminating against products covered  
3           by this chapter that are produced in the United States  
4           and are covered by the agreement."

5           SECTION 3. This Act does not affect rights and duties that  
6           matured, penalties that were incurred, and proceedings that were  
7           begun before its effective date.

8           SECTION 4. This Act shall take effect on July 1, 2012.

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INTRODUCED BY:           *T. Stala*            
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JAN 11 2012



# H.B. NO. 1676

**Report Title:**

Buy American Act

**Description:**

Establishes a preference for the use of American iron, steel, and manufactured goods in the construction, alteration, or repair of public works.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

