
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:

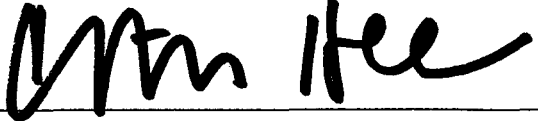
- 19 (1) A foreign country is a party to an agreement with the
20 United States and, pursuant to that agreement, the
21 head of an agency of the United States has waived the
22 requirements of this chapter; and



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.

9 INTRODUCED BY: 



S.B. NO. 2201

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.

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