



## 102ND GENERAL ASSEMBLY

### State of Illinois

2021 and 2022

HB3699

Introduced 2/22/2021, by Rep. Jay Hoffman

#### SYNOPSIS AS INTRODUCED:

30 ILCS 517/3 new  
30 ILCS 517/5  
30 ILCS 517/7 new  
30 ILCS 517/10  
30 ILCS 517/13 new  
30 ILCS 517/25  
30 ILCS 517/35 new

Amends the Procurement of Domestic Products Act. Establishes the Made in Illinois and America Office as a department under the jurisdiction of the Executive Ethics Commission. Provides for the appointed of a Director of the Office. Provides for duties of the Office. Provides for the adoption of rules regarding the Office. Provides that purchasing agencies shall promote the purchase of and give preference to manufactured articles, materials, and supplies that have been manufactured in Illinois (currently, the United States). Provides that, if the purchasing agency determines that certain conditions apply to a procured product, then, with respect to that procurement, the purchasing agency shall give preference to manufactured articles, materials, and supplies that have been manufactured in the United States. Provides waiver requirements under the Act. Requires purchasing agencies to submit compliance reports. Defines terms. Makes conforming changes. Effective immediately.

LRB102 14093 RJF 19445 b

1 AN ACT concerning finance.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Procurement of Domestic Products Act is  
5 amended by changing Sections 5, 10, and 25 and by adding  
6 Sections 3, 7, 13, and 35 as follows:

7 (30 ILCS 517/3 new)

8 Sec. 3. Policy. It is the policy of Illinois that the State  
9 government should, consistent with applicable law, use terms  
10 and conditions of State financial assistance awards and State  
11 procurements to maximize the use of goods, products, and  
12 materials produced in, and services offered in, Illinois. An  
13 Illinois purchasing agency should, whenever possible, procure  
14 goods, products, materials, and services from sources that  
15 will help Illinois businesses compete in strategic industries  
16 and help Illinois workers thrive.

17 (30 ILCS 517/5)

18 Sec. 5. Definitions. As used in this Act:

19 "Component" and "cost of components" have the meanings  
20 given to those terms in the federal Buy American Act of 1933  
21 and as provided under Part 25.003 of the Federal Acquisition  
22 Regulation.

1       "Manufactured in Illinois" means: (1) in the case of  
2 products that are not assembled articles, materials, or  
3 supplies, that the product is mined or produced in Illinois;  
4 (2) in the case of assembled articles, materials, or supplies,  
5 that design, final assembly, processing, packaging, testing,  
6 or other process that adds value, quality, or reliability  
7 occurs in Illinois and the cost of components produced in  
8 Illinois exceeds 50% of the cost of all of the components; or  
9 (3) that the product is a commercially available off-the-shelf  
10 item.

11       "Manufactured in the United States" means: (1) in the case  
12 of products that are not assembled articles, materials, or  
13 supplies, that the product is mined or produced in the United  
14 States; (2), in the case of assembled articles, materials, or  
15 supplies, that design, final assembly, processing, packaging,  
16 testing, or other process that adds value, quality, or  
17 reliability occurs in the United States and the cost of  
18 domestic components exceeds 50% of the cost of all of the  
19 components; or (3) that the product is a commercially  
20 available off-the-shelf item.

21       "Procured products" means assembled articles, materials,  
22 or supplies purchased by a State agency.

23       "Purchasing agency" has the same meaning as provided under  
24 Section 1-15.70 of the Illinois Procurement Code ~~means a State~~  
25 ~~agency.~~

26       "State agency" has the same meaning as provided under

1 Section 1-15.100 of the Illinois Procurement Code ~~means each~~  
2 ~~agency, department, authority, board, or commission of the~~  
3 ~~executive branch of State government, including each~~  
4 ~~university, whether created by statute or by executive order~~  
5 ~~of the Governor.~~

6 "United States" means the United States and any place  
7 subject to the jurisdiction of the United States.

8 (Source: P.A. 98-463, eff. 8-16-13.)

9 (30 ILCS 517/7 new)

10 Sec. 7. Made in Illinois and America Office. The Made in  
11 Illinois and America Office is hereby established as a  
12 department under the jurisdiction of the Executive Ethics  
13 Commission. The Office shall be headed by a Director who shall  
14 be appointed by the Commission from among one of the chief  
15 procurement officers established under Section 10-20 of the  
16 Illinois Procurement Code. The Director and the Office shall  
17 perform all duties as provided under this Act and as may be  
18 prescribed by the Executive Ethics Commission. The Commission  
19 shall adopt all rules necessary for the implementation of this  
20 Section.

21 (30 ILCS 517/10)

22 Sec. 10. Domestic ~~United States~~ products.

23 (a) Each purchasing agency making purchases of procured  
24 products shall promote the purchase of and give preference to

1 manufactured articles, materials, and supplies that have been  
2 manufactured in Illinois ~~the United States~~. Procured products  
3 manufactured in Illinois ~~the United States~~ shall be specified  
4 and purchased unless the purchasing agency determines that any  
5 of the following applies:

6 (1) The procured products are not manufactured in  
7 Illinois ~~the United States~~ in reasonably available  
8 quantities.

9 (2) The price of the procured products manufactured in  
10 Illinois ~~the United States~~ exceeds ~~by an unreasonable~~  
11 ~~amount~~ the price of available and comparable procured  
12 products manufactured outside of Illinois ~~the United~~  
13 ~~States~~ by 12% or more. To be eligible for an exemption  
14 under this paragraph (2), the purchasing agency must first  
15 obtain a waiver as provided under Section 13.

16 (3) The quality of the procured products manufactured  
17 in Illinois ~~the United States~~ is substantially less than  
18 the quality of the comparably priced, available, and  
19 comparable procured products manufactured outside of  
20 Illinois ~~the United States~~.

21 (4) The purchase of the procured products manufactured  
22 outside of Illinois ~~the United States~~ better serves the  
23 public interest by helping to protect or save life,  
24 property, or the environment.

25 (5) The purchase of the procured products is made in  
26 conjunction with contracts or offerings of

1 telecommunications, fire suppression, security systems,  
2 communications services, Internet services, or information  
3 services.

4 (6) The purchase is of pharmaceutical products, drugs,  
5 biologics, vaccines, medical devices used to provide  
6 medical and health care or treat disease or used in  
7 medical or research diagnostic tests, and medical  
8 nutritionals regulated by the Food and Drug Administration  
9 under the federal Food, Drug and Cosmetic Act.

10 (b) If the purchasing agency determines that any of  
11 paragraphs (1) through (4) of subsection (a) applies to a  
12 procured product, then, with respect to that procurement, the  
13 purchasing agency shall give preference to manufactured  
14 articles, materials, and supplies that have been manufactured  
15 in the United States. In that case, procured products  
16 manufactured in the United States shall be specified and  
17 purchased unless the purchasing agency determines that any of  
18 the following applies:

19 (1) The procured products are not manufactured in the  
20 United States in reasonably available quantities.

21 (2) The price of the procured products manufactured in  
22 the United States exceeds the price of available and  
23 comparable procured products manufactured outside the  
24 United States by 12% or more. To be eligible for an  
25 exemption under this paragraph (2), the purchasing agency  
26 must first obtain a waiver as provided under Section 13.

1           (3) The quality of the procured products manufactured  
2           in the United States is substantially less than the  
3           quality of the comparably priced, available, and  
4           comparable procured products manufactured outside the  
5           United States.

6           (4) The purchase of the procured products manufactured  
7           outside the United States better serves the public  
8           interest by helping to protect or save life, property, or  
9           the environment.

10           (5) The purchase of the procured products is made in  
11           conjunction with contracts or offerings of  
12           telecommunications, fire suppression, security systems,  
13           communications services, Internet services, or information  
14           services.

15           (6) The purchase is of pharmaceutical products, drugs,  
16           biologics, vaccines, medical devices used to provide  
17           medical and health care or treat disease or used in  
18           medical or research diagnostic tests, and medical  
19           nutritionals regulated by the Food and Drug Administration  
20           under the federal Food, Drug and Cosmetic Act.

21           (c) In determining the price of procured products for  
22 purposes of this Section, consideration shall be given to the  
23 life-cycle cost, including maintenance and repair of those  
24 procured products.

25           (Source: P.A. 93-954, eff. 1-1-05; 94-540, eff. 1-1-06.)

1 (30 ILCS 517/13 new)

2 Sec. 13. Waiver.

3 (a) Before any purchasing agency may be granted a waiver  
4 from the purchase of products made in Illinois or the United  
5 States under this Act, and unless the Executive Ethics  
6 Commission provides otherwise, the purchasing agency shall  
7 provide the Made in Illinois and America Office with a  
8 description of its proposed waiver and a detailed  
9 justification for the use of goods, products, or materials  
10 that have not been mined, produced, or manufactured in either  
11 this State or the United States as a whole.

12 (b) The Made in Illinois and America Office shall publish  
13 all relevant information that purchasing agencies shall  
14 include when submitting descriptions of proposed waivers and  
15 justifications to the Office. The Office shall also establish  
16 a deadline, not to exceed 15 business days, by which  
17 purchasing agencies seeking a waiver shall either be: (i)  
18 notified that review of the proposed waiver has been excused;  
19 or (ii) notified of the result of the proposed waiver review.

20 (c) The Made in Illinois and America Office, in  
21 consultation with the Executive Ethics Commission, shall  
22 review each proposed waiver submitted under subsection (b),  
23 except when waiver review has been excused. If it is  
24 determined that issuing the proposed waiver would be  
25 consistent with applicable law and the policy set forth in  
26 this Act, then the purchasing agency shall be notified of that



1 determination in writing. If it is determined that issuing the  
2 proposed waiver would not be consistent with applicable law or  
3 the policy set forth in this Act, then the purchasing agency  
4 shall be notified of that determination, and the proposed  
5 waiver shall be returned to the purchasing agency for further  
6 consideration along with a written explanation for the  
7 determination.

8 (d) When a purchasing agency is obligated by law to act  
9 more quickly than the review procedures established in this  
10 Section allow, the purchasing agency shall notify the Made in  
11 Illinois and America Office as soon as possible and, to the  
12 extent practicable, comply with the requirements set forth in  
13 this Section. Nothing in this Section shall be construed as a  
14 displacing purchasing agencies' authorities or  
15 responsibilities under law.

16 (e) The Made in Illinois and America Office shall make  
17 available to the public on the Internet website of the  
18 Executive Ethics Commission all information concerning  
19 proposed waivers and whether those waivers have been granted  
20 for the purpose of enabling manufacturers and other interested  
21 parties to easily identify proposed waivers, and whether such  
22 waivers would be granted. To the extent permitted by law,  
23 descriptions of proposed waivers and justifications submitted  
24 by purchasing agencies to the Office shall also be made  
25 publicly available on the website. The website shall also  
26 include contact information for the Office and the Executive

1 Ethics Commission.

2 (30 ILCS 517/25)

3 Sec. 25. Penalties. If a contractor is awarded a contract  
4 through the use of a preference under this Act and knowingly  
5 supplies procured products under that contract that are not  
6 manufactured in Illinois or the United States, as applicable,  
7 then (i) the contractor is barred from obtaining any State  
8 contract for a period of 5 years after the violation is  
9 discovered by the purchasing agency, (ii) the purchasing  
10 agency may void the contract, and (iii) the purchasing agency  
11 may recover damages in a civil action in an amount 3 times the  
12 value of the preference.

13 (Source: P.A. 93-954, eff. 1-1-05; 94-540, eff. 1-1-06.)

14 (30 ILCS 517/35 new)

15 Sec. 35. Compliance reports. Beginning within 180 days  
16 after the effective date of this amendatory Act of the 102nd  
17 General Assembly, and bi-annually thereafter, each purchasing  
18 agency shall submit to the Made in Illinois and America Office  
19 a report on: (i) the purchasing agency's compliance with the  
20 Act; (ii) the purchasing agency's ongoing use of waivers, if  
21 any; (iii) the purchasing agency's analysis of goods,  
22 products, materials, and services not subject to the Act or  
23 where requirements of the Act have been waived; and (iv) any  
24 recommendations for how to further effectuate the policy set

1 forth in this Act.

2       Section 99. Effective date. This Act takes effect upon  
3 becoming law.