



Rep. Jay Hoffman

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10200HB3820ham001

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1 AMENDMENT TO HOUSE BILL 3820

2 AMENDMENT NO. _____. Amend House Bill 3820 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Procurement of Domestic Products Act is
5 amended by changing Sections 5 and 10 and by adding Sections 3,
6 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 procurement to maximize the use of goods, products, and
12 materials, produced in, and services offered in, the United
13 States. An Illinois purchasing agency should, whenever
14 possible, procure goods, products, materials, and services
15 from sources that will help American businesses compete in
16 strategic industries and help America's workers thrive.

1 (30 ILCS 517/5)

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

3 "Component" and "cost of components" have the meanings
4 given to those terms in the federal Buy American Act of 1933
5 and as provided under Part 25.003 of the Federal Acquisition
6 Regulation.

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

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

19 "Purchasing agency" has the same meaning as provided under
20 Section 1-15.70 of the Illinois Procurement Code ~~means a State~~
21 ~~agency.~~

22 "State agency" has the same meaning as provided under
23 Section 1-15.70 of the Illinois Procurement Code ~~means each~~
24 ~~agency, department, authority, board, or commission of the~~
25 ~~executive branch of State government, including each~~

1 ~~university, whether created by statute or by executive order~~
2 ~~of the Governor.~~

3 "United States" means the United States and any place
4 subject to the jurisdiction of the United States.

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

6 (30 ILCS 517/7 new)

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

17 (30 ILCS 517/10)

18 Sec. 10. United States products. Each purchasing agency
19 making purchases of procured products shall promote the
20 purchase of and give preference to manufactured articles,
21 materials, and supplies that have been manufactured in the
22 United States. Procured products manufactured in the United
23 States shall be specified and purchased unless the purchasing
24 agency determines that any of the following applies:

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

3 (2) The price of the procured products manufactured in
4 the United States exceeds ~~by an unreasonable amount~~ the
5 price of available and comparable procured products
6 manufactured outside the United States by 12% or more. To
7 be eligible for an exemption under this paragraph (2), the
8 purchasing agency must first obtain a written waiver from
9 the chief procurement officer.

10 (3) The quality of the procured products manufactured
11 in the United States is substantially less than the
12 quality of the comparably priced, available, and
13 comparable procured products manufactured outside the
14 United States.

15 (4) The purchase of the procured products manufactured
16 outside the United States better serves the public
17 interest by helping to protect or save life, property, or
18 the environment.

19 (5) The purchase of the procured products is made in
20 conjunction with contracts or offerings of
21 telecommunications, fire suppression, security systems,
22 communications services, Internet services, or information
23 services.

24 (6) The purchase is of pharmaceutical products, drugs,
25 biologics, vaccines, medical devices used to provide
26 medical and health care or treat disease or used in

1 medical or research diagnostic tests, and medical
2 nutritionals regulated by the Food and Drug Administration
3 under the federal Food, Drug and Cosmetic Act.

4 In determining the price of procured products for purposes
5 of this Section, consideration shall be given to the
6 life-cycle cost, including maintenance and repair of those
7 procured products.

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

9 (30 ILCS 517/13 new)

10 Sec. 13. Waiver.

11 (a) Before any purchasing agency may be granted a waiver
12 from the purchase of products made in the United States under
13 this Act, and unless the Executive Ethic Commission provides
14 otherwise, the purchasing agency shall provide the Made in
15 America Office with a description of its proposed waiver and a
16 detailed justification for the use of goods, products, or
17 materials that have not been mined, produced, or manufactured
18 in the United States.

19 (b) The Made in America Office shall publish all relevant
20 information that purchasing agencies shall include when
21 submitting descriptions of proposed waivers and justifications
22 to the Office. The Office shall also establish a deadline, not
23 to exceed 15 business days, by which purchasing agencies
24 seeking a waiver shall either be: (i) notified that review of
25 the proposed waiver has been excused; or (ii) notified of the

1 result of the proposed waiver review.

2 (c) The Made in America Office, in consultation with the
3 Executive Ethics Commission, shall review each proposed waiver
4 submitted under subsection (b), except when waiver review has
5 been excused. If it is determined that issuing the proposed
6 waiver would be consistent with applicable law and the policy
7 set forth in this Act, then the purchasing agency shall be
8 notified of that determination in writing. If it is determined
9 that issuing the proposed waiver would not be consistent with
10 applicable law or the policy set forth in this Act, then the
11 purchasing agency shall be notified of that determination, and
12 the proposed waiver shall be returned to the purchasing agency
13 for further consideration along with a written explanation for
14 the determination.

15 (d) When a purchasing agency is obligated by law to act
16 more quickly than the review procedures established in this
17 Section allow, the purchasing agency shall notify the Made in
18 America Office as soon as possible and, to the extent
19 practicable, comply with the requirements set forth in this
20 Section. Nothing in this Section shall be construed as
21 displacing purchasing agencies' authorities or
22 responsibilities under law.

23 (e) The Made in America Office shall make available to the
24 public on the Internet website of the Executive Ethics
25 Commission all information concerning proposed waivers and
26 whether those waivers have been granted for the purpose of

1 enabling manufacturers and other interested parties to easily
2 identify proposed waivers, and whether such waivers would be
3 granted. To the extent permitted by law, descriptions of
4 proposed waivers and justifications submitted by purchasing
5 agencies to the Office shall also be made publicly available
6 on the website. The website shall also include contact
7 information for the Office and the Executive Ethics
8 Commission.

9 (30 ILCS 517/35 new)

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

20 Section 99. Effective date. This Act takes effect upon
21 becoming law."