

# HOUSE BILL 909

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By: **Delegates Kramer, Barkley, Fraser-Hidalgo, Simmons, Stocksdale, and Valderrama**

Introduced and read first time: February 5, 2014

Assigned to: Health and Government Operations

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## A BILL ENTITLED

AN ACT concerning

### **Procurement – Purchasing Products Containing Chicken Processed in China – Prohibition on Use of State Funds**

FOR the purpose of prohibiting the use of State funds to purchase a product that contains chicken that was processed in China; applying the prohibition to certain procurements and units of State government that are generally excluded from State procurement law; and generally relating to the use of State funds to purchase products containing chicken that was processed in China.

BY repealing and reenacting, without amendments,  
Article – State Finance and Procurement  
Section 11–203(a) and (e)(1) and (2)  
Annotated Code of Maryland  
(2009 Replacement Volume and 2013 Supplement)

BY repealing and reenacting, with amendments,  
Article – State Finance and Procurement  
Section 11–203(b)(1), (c), and (e)(5)  
Annotated Code of Maryland  
(2009 Replacement Volume and 2013 Supplement)

BY adding to  
Article – State Finance and Procurement  
Section 14–417  
Annotated Code of Maryland  
(2009 Replacement Volume and 2013 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



**Article – State Finance and Procurement**

11–203.

(a) Except as provided in subsection (b) of this section, this Division II does not apply to:

(1) procurement by:

(i) the Blind Industries and Services of Maryland;

(ii) the Maryland State Arts Council, for the support of the arts;

(iii) the Maryland Health and Higher Educational Facilities Authority, if no State money is to be spent on a procurement contract;

(iv) the Maryland Industrial Training Program or the Partnership for Workforce Quality Program in the Department of Business and Economic Development, for training services or programs for new or expanding businesses or industries or businesses or industries in transition;

(v) the Maryland Food Center Authority, to the extent the Authority is exempt under Title 10, Subtitle 2 of the Economic Development Article;

(vi) the Maryland Public Broadcasting Commission:

1. for services of artists for educational and cultural television productions; or

2. when planning for or fulfilling the obligations of grants or cooperative agreements that support the educational and cultural activities of the Commission;

(vii) public institutions of higher education, for cultural, entertainment, and intercollegiate athletic procurement contracts;

(viii) the Maryland State Planning Council on Developmental Disabilities, for services to support demonstration, pilot, and training programs;

(ix) the Maryland Historical Trust for:

1. surveying and evaluating architecturally, archeologically, historically, or culturally significant properties; and

2. other than as to architectural services, preparing historic preservation planning documents and educational material;

(x) the University of Maryland, for University College Overseas Programs, if the University adopts regulations that:

1. establish policies and procedures governing procurement for University College Overseas Programs; and
2. promote the purposes stated in § 11–201(a) of this subtitle;

(xi) the Department of Business and Economic Development, for negotiating and entering into private sector cooperative marketing projects that directly enhance promotion of Maryland and the tourism industry where there will be a private sector contribution to the project of not less than 50% of the total cost of the project, if the project is reviewed by the Attorney General and approved by the Secretary of Business and Economic Development or the Secretary's designee;

(xii) the Rural Maryland Council;

(xiii) the Maryland State Lottery and Gaming Control Agency, for negotiating and entering into private sector cooperative marketing projects that directly enhance promotion of the Maryland State Lottery and its products, if the cooperative marketing project:

1. provides a substantive promotional or marketing value that the lottery determines acceptable in exchange for advertising or other promotional activities provided by the lottery;
2. does not involve the advertising or other promotion of alcohol or tobacco products; and
3. is reviewed by the Attorney General and approved by the Maryland Lottery Director or the Director's designee;

(xiv) the Maryland Health Insurance Plan established under Title 14, Subtitle 5 of the Insurance Article;

(xv) the Maryland Energy Administration, when negotiating or entering into grants or cooperative agreements with private entities to meet federal specifications or solicitation requirements related to energy conservation, energy efficiency, or renewable energy projects that benefit the State;

(xvi) the Maryland Developmental Disabilities Administration of the Department of Health and Mental Hygiene for family and individual support services, and individual family care services, as those terms are defined by the Department of Health and Mental Hygiene in regulation;

**HOUSE BILL 909**

(xvii) the Department of General Services for the renovation of a structure that:

1. was built during the 18th or 19th century; and
2. is listed in or eligible for listing in the National Register of Historic Places; and

(xviii) the Department of Natural Resources, for negotiating or entering into grants, agreements, or partnerships with nonprofit entities related to conservation service opportunities;

(2) procurement by a unit from:

- (i) another unit;
- (ii) a political subdivision of the State;
- (iii) an agency of a political subdivision of the State;
- (iv) a government, including the government of another state, of the United States, or of another country;
- (v) an agency or political subdivision of a government; or
- (vi) a bistate, multistate, bicounty, or multicounty governmental agency; or

(3) procurement in support of enterprise activities for the purpose of:

- (i) direct resale; or
- (ii) remanufacture and subsequent resale.

(b) (1) The following provisions of this Division II apply to each procurement enumerated in subsection (a) of this section:

- (i) § 11–205 of this subtitle (“Collusion”);
- (ii) § 10–204 of this article (“Approval for designated contracts”);
- (iii) Title 12, Subtitle 2 of this article (“Supervision of Capital Expenditures and Real Property Leases”);
- (iv) § 13–219 of this article (“Required clauses – Nondiscrimination clause”);

- (v) § 13–221 of this article (“Disclosures to Secretary of State”);
- (vi) Title 12, Subtitle 4 of this article (“Policies and Procedures for Exempt Units”);
- (vii) Title 16 of this article (“Suspension and Debarment of Contractors”); [and]
- (viii) Title 17 of this article (“Special Provisions – State and Local Subdivisions”); **AND**

**(IX) § 14–417 OF THIS ARTICLE (“PURCHASING PRODUCTS CONTAINING CHICKEN”).**

(c) Except as provided in Title 12, Subtitle 4 and Title 14, Subtitle 3 of this article **AND EXCEPT FOR § 14–417 OF THIS ARTICLE**, this Division II does not apply to the Maryland Stadium Authority.

(e) (1) In this subsection, “University” means the University System of Maryland, Morgan State University, or St. Mary’s College of Maryland.

(2) Except as otherwise provided in this subsection, this Division II does not apply to the University System of Maryland, Morgan State University, or St. Mary’s College of Maryland.

(5) (i) Except as provided in paragraph (7) of this subsection, the following provisions of Division II of this article apply to a University:

1. § 11–205 of this subtitle (“Collusion”);
2. § 11–205.1 of this subtitle (“Falsification, concealment, etc., of material facts”);
3. § 13–219 of this article (“Required clauses – Nondiscrimination clause”);
4. § 13–225 of this article (“Retainage”);
5. Title 14, Subtitle 3 of this article (“Minority Business Participation”);
6. Title 15, Subtitle 1 of this article (“Procurement Contract Administration”);
7. § 15–226 of this article (“Policy established; timing of payments; notice upon nonpayment; disputes; appeals”); [and]

8. Title 16 of this article (“Suspension and Debarment of Contractors”); AND

**9. § 14-417 OF THIS ARTICLE (“PURCHASING PRODUCTS CONTAINING CHICKEN”).**

(ii) If a procurement violates the provisions of this subsection or policies adopted in accordance with this subsection, the procurement contract is void or voidable in accordance with the provisions of § 11-204 of this subtitle.

**14-417. PURCHASING PRODUCTS CONTAINING CHICKEN.**

**STATE FUNDS MAY NOT BE USED TO PURCHASE A PRODUCT THAT CONTAINS CHICKEN THAT WAS PROCESSED IN CHINA.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2014.