

SENATE BILL 432

P2

2lr1698

By: **Senators Young, Forehand, Garagiola, Klausmeier, Madaleno, Montgomery, and Stone**

Introduced and read first time: February 2, 2012

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Procurement – Maryland Buy American Steel and Manufactured Goods Act**

3 FOR the purpose of altering the Maryland Buy American Steel Act to include
4 American manufactured goods; requiring a public body to require that certain
5 contractors and subcontractors use or supply only American manufactured
6 goods under certain procurements; defining a term; providing for the application
7 of this Act; requiring a public body to give a certain notice; requiring the Board
8 of Public Works to adopt certain regulations regarding the granting of a
9 preference for the use of American manufactured goods; and generally relating
10 to the Maryland Buy American and Manufactured Goods Act.

11 BY repealing and reenacting, with amendments,
12 Article – State Finance and Procurement
13 Section 17–301, 17–303, 17–304, and 17–306 to be under the amended subtitle
14 “Subtitle 3. Buy American Procurement for Public Works”
15 Annotated Code of Maryland
16 (2009 Replacement Volume and 2011 Supplement)

17 BY repealing and reenacting, without amendments,
18 Article – State Finance and Procurement
19 Section 17–302 and 17–305
20 Annotated Code of Maryland
21 (2009 Replacement Volume and 2011 Supplement)

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

24 **Article – State Finance and Procurement**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Subtitle 3. [Steel] **BUY AMERICAN** Procurement for Public Works.

2 17-301.

3 (a) In this subtitle the following words have the meanings indicated.

4 **(B) “AMERICAN MANUFACTURED GOODS” MEANS GOODS FOR WHICH:**

5 **(1) ALL OF THE MANUFACTURING PROCESSES FOR THE FINAL**
6 **PRODUCT TAKE PLACE IN THE UNITED STATES; AND**

7 **(2) ALL OF THE COMPONENTS OF THE FINAL PRODUCT**
8 **ORIGINATE IN THE UNITED STATES ON ACCOUNT OF THE MANUFACTURING**
9 **PROCESSES FOR THE COMPONENT, REGARDLESS OF THE ORIGIN OF THE**
10 **SUBCOMPONENTS.**

11 **[(b)] (C) “American steel product” means a product that is:**

12 (1) produced from steel made in any state by the open hearth, basic
13 oxygen, electric furnace, Bessemer, or other steel making process; and

14 (2) rolled, forged, drawn, cast, extruded, or otherwise similarly
15 processed.

16 **[(c)] (D) “Public body” means:**

17 (1) the State;

18 (2) a unit of the State government; or

19 (3) a county, municipal corporation, school or conservation district, or
20 other governmental entity that, by State law, awards contracts for public construction
21 or other public work.

22 17-302.

23 The provisions of this subtitle do not apply if they conflict with a federal law or
24 grant affecting a contract.

25 17-303.

26 (a) Except as otherwise provided in this subtitle, a public body shall require
27 a contractor or subcontractor to use or supply only American steel products **AND**
28 **AMERICAN MANUFACTURED GOODS** in the performance of a contract for:

29 (1) constructing or maintaining a public work; or

(2) buying or manufacturing machinery or equipment that:

(i) is composed of at least 10,000 pounds of steel products; and

(ii) is to be installed at a public work site.

(b) This section does not apply if the head of a public body determines that:

(1) the price of American steel products **OR AMERICAN MANUFACTURED GOODS** is not reasonable, as provided in § 17–304 of this subtitle;

(2) American steel products **OR AMERICAN MANUFACTURED GOODS** are not produced in sufficient quantity to meet the requirements of the contract; or

(3) the purchase of American steel products **OR AMERICAN MANUFACTURED GOODS** would be inconsistent with the public interest.

(c) The public body shall give notice of the requirement for American steel products **AND AMERICAN MANUFACTURED GOODS** in the invitation for bids or request for proposals.

17–304.

The Board shall adopt regulations, in accordance with Title 10, Subtitle 1 of the State Government Article, stating that a bid or offered price of an American steel product **OR AN AMERICAN MANUFACTURED GOOD** shall be considered reasonable if it does not exceed the sum of the bid or offered price of a similar steel product **OR MANUFACTURED GOOD** of foreign origin, including duty, plus:

(1) 20% of that bid or offered price; or

(2) 30% of that bid or offered price if the steel product **OR MANUFACTURED GOOD** is produced in a “substantial labor surplus area” as defined by the United States Department of Labor.

17–305.

(a) Unless a public body is satisfied that a person has completed the work in full compliance with §§ 17–303 and 17–304 of this subtitle, the public body may not pay or authorize a payment for work subject to §§ 17–303 and 17–304 of this subtitle to a person under a contract.

(b) If a person receives a payment that should not have been made under subsection (a) of this section, the Attorney General may recover the portion of the payment that is attributable to work that does not comply with §§ 17–303 and 17–304

1 of this subtitle directly from the person who did not comply with §§ 17–303 and
2 17–304 of this subtitle by filing a complaint in the circuit court for the county where
3 the contract was executed or performed.

4 17–306.

5 This subtitle may be cited as the “Maryland Buy American Steel **AND**
6 **MANUFACTURED GOODS Act**”.

7 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
8 October 1, 2012.