

# SENATE BILL 47

P2  
SB 432/12 – EHE

(PRE-FILED)

3lr0401  
CF HB 191

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By: ~~Senator Young~~ Senators Young, Forehand, Garagiola, Klausmeier, Madaleno, Montgomery, Stone, Colburn, Benson, Dyson, Manno, Conway, Rosapepe, Ferguson, Jennings, and Simonaire

Requested: August 31, 2012

Introduced and read first time: January 9, 2013

Assigned to: Education, Health, and Environmental Affairs

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 15, 2013

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Procurement – ~~Maryland Buy American Steel and~~ Purchase of American**  
3 **Manufactured Goods Act**

4 FOR the purpose of altering the ~~Maryland Buy American Steel Act~~ to include  
5 American manufactured goods; requiring a public body to require that certain  
6 contractors and subcontractors use or supply only American manufactured  
7 goods under certain procurements; defining a term; providing for the application  
8 of this Act; requiring a public body to give a certain notice; requiring the Board  
9 of Public Works to adopt certain regulations regarding the granting of a  
10 preference for the use of American manufactured goods; and generally relating  
11 to the Maryland Buy American Steel and Manufactured Goods Act State  
12 procurement law to grant a preference for American manufactured goods in  
13 State contracting; requiring a public body to require that certain contractors  
14 and subcontractors use or supply American manufactured goods under certain  
15 procurements; providing for the application and construction of this Act;  
16 requiring a public body to give a certain notice; requiring the Board of Public  
17 Works to adopt certain regulations regarding the granting of a preference for  
18 the use of American manufactured goods; defining certain terms; and generally  
19 relating to the purchase of American manufactured goods.

20 ~~BY repealing and reenacting, with amendments,~~  
21 ~~Article State Finance and Procurement~~

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 ~~Section 17-301, 17-303, 17-304, and 17-306 to be under the amended subtitle~~  
 2 ~~“Subtitle 3. Buy American Procurement for Public Works”~~  
 3 ~~Annotated Code of Maryland~~  
 4 ~~(2009 Replacement Volume and 2012 Supplement)~~

5 BY ~~repealing and reenacting, without amendments,~~ adding to  
 6 Article – State Finance and Procurement  
 7 Section ~~17-302 and 17-305~~ 14-416  
 8 Annotated Code of Maryland  
 9 (2009 Replacement Volume and 2012 Supplement)

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

12 **Article – State Finance and Procurement**

13 ~~Subtitle 3. [Steel] BUY AMERICAN Procurement for Public Works.~~

14 ~~17-301.~~

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

16 ~~(b) “AMERICAN MANUFACTURED GOODS” MEANS GOODS FOR WHICH:~~

17 ~~(1) ALL OF THE MANUFACTURING PROCESSES FOR THE FINAL~~  
 18 ~~PRODUCT TAKE PLACE IN THE UNITED STATES; AND~~

19 ~~(2) ALL OF THE COMPONENTS OF THE FINAL PRODUCT~~  
 20 ~~ORIGINATE IN THE UNITED STATES ON ACCOUNT OF THE MANUFACTURING~~  
 21 ~~PROCESSES FOR THE COMPONENT, REGARDLESS OF THE ORIGIN OF THE~~  
 22 ~~SUBCOMPONENTS.~~

23 ~~(b)(c) “American steel product” means a product that is:~~

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

26 ~~(2) rolled, forged, drawn, cast, extruded, or otherwise similarly~~  
 27 ~~processed.~~

28 ~~(c)(d) “Public body” means:~~

29 ~~(1) the State;~~

30 ~~(2) a unit of the State government; or~~

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

~~17-302.~~

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

~~17-303.~~

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

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

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

5 ~~17-305.~~

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

10           (b) ~~If a person receives a payment that should not have been made under~~  
 11 ~~subsection (a) of this section, the Attorney General may recover the portion of the~~  
 12 ~~payment that is attributable to work that does not comply with §§ 17-303 and 17-304~~  
 13 ~~of this subtitle directly from the person who did not comply with §§ 17-303 and~~  
 14 ~~17-304 of this subtitle by filing a complaint in the circuit court for the county where~~  
 15 ~~the contract was executed or performed.~~

16 ~~17-306.~~

17           ~~This subtitle may be cited as the "Maryland Buy American Steel AND~~  
 18 ~~MANUFACTURED GOODS Act".~~

19 **14-416.**

20           **(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE**  
 21 **MEANINGS INDICATED.**

22           **(2) "AMERICAN MANUFACTURED GOODS" MEANS GOODS THAT:**

23           **(I) ARE MANUFACTURED IN THE UNITED STATES; OR**

24           **(II) ARE ASSEMBLED IN THE UNITED STATES.**

25           **(3) (I) "EMERGENCY LIFE SAFETY AND PROPERTY SAFETY**  
 26 **GOODS" MEANS ANY GOODS WHEN PROVIDED FOR INSTALLATION IN, AS PART**  
 27 **OF, OR AS AN ADDITION TO A SYSTEM DESIGNED TO:**

28           **1. PREVENT, RESPOND TO, ALERT REGARDING,**  
 29 **SUPPRESS, CONTROL, OR EXTINGUISH AN EMERGENCY OR THE CAUSE OF AN**  
 30 **EMERGENCY THAT THREATENS LIFE OR PROPERTY; OR**

1                                   **2. ASSIST IN EVACUATION IN THE EVENT OF AN**  
2 **EMERGENCY THAT THREATENS LIFE OR PROPERTY.**

3                                   **(II) “EMERGENCY LIFE SAFETY AND PROPERTY SAFETY**  
4 **GOODS” INCLUDES SYSTEMS OR ITEMS FOR OR RELATING TO:**

- 5                                   **1. FIRE ALARMS;**
- 6                                   **2. FIRE SPRINKLERS;**
- 7                                   **3. FIRE SUPPRESSION;**
- 8                                   **4. FIRE EXTINGUISHING;**
- 9                                   **5. SECURITY;**
- 10                                   **6. GAS DETECTION;**
- 11                                   **7. INTRUSION DETECTION;**
- 12                                   **8. ACCESS CONTROL;**
- 13                                   **9. VIDEO SURVEILLANCE AND RECORDING;**
- 14                                   **10. MASS NOTIFICATION;**
- 15                                   **11. PUBLIC ADDRESS;**
- 16                                   **12. EMERGENCY LIGHTING;**
- 17                                   **13. PATIENT WANDERING;**
- 18                                   **14. INFANT TAGGING; AND**
- 19                                   **15. NURSE CALL.**

20                                   **(4) “PUBLIC BODY” MEANS:**

- 21                                   **(I) A UNIT;**
- 22                                   **(II) A COUNTY;**
- 23                                   **(III) A MUNICIPALITY IN THE STATE;**
- 24                                   **(IV) A SCHOOL DISTRICT IN THE STATE; OR**

1                    **(V) A SPECIAL DISTRICT IN THE STATE.**

2                    **(B) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, A**  
3 **PUBLIC BODY SHALL REQUIRE A CONTRACTOR OR SUBCONTRACTOR TO USE OR**  
4 **SUPPLY AMERICAN MANUFACTURED GOODS IN THE PERFORMANCE OF A**  
5 **CONTRACT FOR:**

6                    **(1) CONSTRUCTING OR MAINTAINING A PUBLIC WORK; OR**

7                    **(2) BUYING OR MANUFACTURING MACHINERY OR EQUIPMENT**  
8 **THAT IS TO BE INSTALLED AT A PUBLIC WORK SITE.**

9                    **(C) THIS SECTION DOES NOT APPLY:**

10                   **(1) IF THE HEAD OF A PUBLIC BODY DETERMINES THAT:**

11                   **(I) THE PRICE OF THE AMERICAN MANUFACTURED GOODS**  
12 **EXCEEDS THE PRICE OF A SIMILAR MANUFACTURED GOOD THAT IS NOT**  
13 **MANUFACTURED IN THE UNITED STATES BY AN UNREASONABLE AMOUNT;**

14                   **(II) THE ITEM OR A SIMILAR ITEM IS NOT MANUFACTURED**  
15 **OR AVAILABLE FOR PURCHASE IN THE UNITED STATES IN REASONABLY**  
16 **AVAILABLE QUANTITIES;**

17                   **(III) THE QUALITY OF THE ITEM OR A SIMILAR ITEM**  
18 **MANUFACTURED IN THE UNITED STATES IS SUBSTANTIALLY LESS THAN THE**  
19 **QUALITY OF A COMPARABLY PRICED, SIMILAR, AND AVAILABLE ITEM THAT IS**  
20 **NOT MANUFACTURED IN THE UNITED STATES; OR**

21                   **(IV) THE PROCUREMENT OF A MANUFACTURED GOOD**  
22 **WOULD BE INCONSISTENT WITH THE PUBLIC INTEREST; OR**

23                   **(2) TO EMERGENCY LIFE SAFETY AND PROPERTY SAFETY GOODS.**

24                   **(D) THE BOARD OF PUBLIC WORKS SHALL ADOPT REGULATIONS TO**  
25 **DEFINE THE FOLLOWING TERMS FOR THE PURPOSES OF THIS SECTION:**

26                   **(1) “REASONABLY AVAILABLE”;**

27                   **(2) “UNREASONABLE AMOUNT”; AND**

28                   **(3) “SUBSTANTIALLY LESS”.**

29                   **SECTION 2. AND BE IT FURTHER ENACTED, That:**

1                   (1) This Act shall be applied in a manner consistent with the State's  
2 obligations under any applicable international agreement to which the State is bound;  
3 and

4                   (2) This Act may not be construed to amend, alter, or impair any  
5 obligation imposed under Title 17, Subtitle 3 of the State Finance and Procurement  
6 Article.

7                   SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take  
8 effect October 1, 2013.

Approved:

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Governor.

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President of the Senate.

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Speaker of the House of Delegates.