



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB0357

by Rep. Jay Hoffman

SYNOPSIS AS INTRODUCED:

30 ILCS 517/5
30 ILCS 517/10
30 ILCS 517/25

Amends the Procurement of Domestic Products Act. 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. Effective immediately.

LRB101 05160 RJF 50172 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

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 as follows:

6 (30 ILCS 517/5)

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

8 "Component" and "cost of components" have the meanings
9 given to those terms in the federal Buy American Act of 1933.

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

20 "Manufactured in the United States" means: (1) in the case
21 of products that are not assembled articles, materials, or
22 supplies, that the product is mined or produced in the United
23 States; (2),⁷ in the case of assembled articles, materials, or

1 supplies, that design, final assembly, processing, packaging,
2 testing, or other process that adds value, quality, or
3 reliability occurs in the United States and the cost of
4 domestic components exceeds 50% of the cost of all of the
5 components; or (3) that the product is a commercially available
6 off-the-shelf item.

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

9 "Purchasing agency" means a State agency.

10 "State agency" means each agency, department, authority,
11 board, or commission of the executive branch of State
12 government, including each university, whether created by
13 statute or by executive order of the Governor.

14 "United States" means the United States and any place
15 subject to the jurisdiction of the United States.

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

17 (30 ILCS 517/10)

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

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

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

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

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

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

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

25 (6) The purchase is of pharmaceutical products, drugs,
26 biologics, vaccines, medical devices used to provide

1 medical and health care or treat disease or used in medical
2 or research diagnostic tests, and medical nutritionals
3 regulated by the Food and Drug Administration under the
4 federal Food, Drug and Cosmetic Act.

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

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

16 (2) The price of the procured products manufactured in
17 the United States exceeds the price of available and
18 comparable procured products manufactured outside the
19 United States by 12% or more. To be eligible for an
20 exemption under this paragraph (2), the purchasing agency
21 must first obtain a written waiver from the chief
22 procurement officer.

23 (3) The quality of the procured products manufactured
24 in the United States is substantially less than the quality
25 of the comparably priced, available, and comparable
26 procured products manufactured outside the United States.

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

5 (5) The purchase of the procured products is made in
6 conjunction with contracts or offerings of
7 telecommunications, fire suppression, security systems,
8 communications services, Internet services, or information
9 services.

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

16 (c) In determining the price of procured products for
17 purposes of this Section, consideration shall be given to the
18 life-cycle cost, including maintenance and repair of those
19 procured products.

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

21 (30 ILCS 517/25)

22 Sec. 25. Penalties. If a contractor is awarded a contract
23 through the use of a preference under this Act and knowingly
24 supplies procured products under that contract that are not
25 manufactured in Illinois or the United States, as applicable,

1 then (i) the contractor is barred from obtaining any State
2 contract for a period of 5 years after the violation is
3 discovered by the purchasing agency, (ii) the purchasing agency
4 may void the contract, and (iii) the purchasing agency may
5 recover damages in a civil action in an amount 3 times the
6 value of the preference.

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

8 Section 99. Effective date. This Act takes effect upon
9 becoming law.