

HOUSE BILL No. 2262

By Representative Whipple

2-12

1 AN ACT enacting the Kansas buy American act.

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3 *Be it enacted by the Legislature of the State of Kansas:*

4 Section 1. (a) Sections 1 through 3, and amendments thereto, shall be
5 known and may be cited as the Kansas buy American act.

6 (b) This act shall be administered by the secretary of administration.

7 Sec. 2. As used in the Kansas buy American act:

8 (a) "Agency head" shall have the meaning ascribed to such term in
9 K.S.A. 75-37,111, and amendments thereto.

10 (b) "Airport" shall have the meaning ascribed to such term in K.S.A.
11 3-701, and amendments thereto.

12 (c) "Highway" shall have the meaning ascribed to the term "public
13 highway" in K.S.A. 79-3490, and amendments thereto.

14 (d) "Manufactured" means:

15 (1) In the case of an iron or steel product, except metallurgical
16 processes involving the refinement of steel additives, all manufacturing
17 shall have taken place in the United States.

18 (2) In the case of a manufactured good, a good shall be considered to
19 have been manufactured in the United States if:

20 (A) All the manufacturing processes for the product have taken place
21 in the United States; and

22 (B) 75% of all of the components of the product are of United States
23 origin. A product component shall only be considered a product of United
24 States origin if all the manufacturing processes for the product component
25 have taken place in the United States, regardless of the origin of any
26 subcomponent of such product component.

27 (e) "Public building" means any structure or building that is:

28 (1) Owned or leased and operated by a state agency;

29 (2) of either a temporary or permanent nature; and

30 (3) used for either a governmental or proprietary use.

31 The term "public building" also includes any repair to, modification of
32 or addition to a public building.

33 (f) "Public works" means and includes any of the following that are
34 owned or leased and operated by a state agency:

35 (1) Highway, including any repair to, modification of or addition to
36 such highway;

1 (2) transportation system, including any repair to, modification of or
2 addition to such transportation system; and

3 (3) airport, including any repair to, modification of or addition to
4 such airport.

5 (g) "State agency" shall have the meaning ascribed to such term in
6 K.S.A. 75-3044, and amendments thereto.

7 (h) "Secretary" means the secretary of administration.

8 (i) "Transportation system" means all plants, transportation facilities,
9 equipment, property and rights useful for transportation of passengers for
10 hire, except taxicabs, and includes, without limiting the generality of the
11 foregoing, street railways, subways and underground railroads, trolley
12 buses, motor buses and any combination thereof.

13 (j) "United States" means the United States of America and includes
14 all territory, continental or insular, subject to the jurisdiction of the United
15 States.

16 Sec. 3. (a) Notwithstanding any other provision of law to the contrary,
17 each contract for the purchase, construction, reconstruction, alteration,
18 repair, improvement or maintenance of a public building or a public work
19 entered into by a state agency shall contain a provision that the iron, steel
20 or manufactured goods used or supplied in the performance of the contract
21 or any subcontract related thereto shall be or have been manufactured in
22 the United States.

23 (b) The provisions of subsection (a) shall be waived in any case or
24 category of cases in which the secretary approves a finding by the agency
25 head of a state agency that:

26 (1) Their application would be inconsistent with the public interest;

27 (2) the iron, steel or manufactured goods are not manufactured in the
28 United States in sufficient and reasonably available quantities and of a
29 satisfactory quality; or

30 (3) the inclusion of the iron, steel or manufactured goods
31 manufactured in the United States will increase the cost of the contract by
32 more than 25%.

33 (c) If the agency head of a state agency submits a request for a waiver
34 to the secretary, the secretary shall provide notice of and an opportunity for
35 public comment on the request at least 30 days before making a
36 determination on the request of the agency head.

37 (1) The notice required under this subsection shall:

38 (A) Include the information made available to the secretary
39 concerning the request, including whether the request is being made
40 pursuant to subsection (b)(1), (b)(2) or (b)(3); and

41 (B) be provided to the public by publishing such notice and the
42 information made available to the secretary on the website of the state
43 agency.

- 1 (2) If the secretary issues a waiver, the secretary shall publish in the
- 2 Kansas register a detailed justification for the waiver that:
- 3 (A) Addresses any public comment received; and
- 4 (B) is published before the waiver takes effect.
- 5 (d) (1) No person shall intentionally:
- 6 (A) Affix a label or mark bearing a "Made in America" or similar
- 7 inscription to any iron, steel or manufactured good used in projects to
- 8 which this section applies, sold in or shipped to this state that was not
- 9 manufactured in the United States; or
- 10 (B) represent that any iron, steel or manufactured good used in
- 11 projects to which this section applies was manufactured in the United
- 12 States when, in fact, such good was not manufactured in the United States.
- 13 (2) If it has been determined by a court or the secretary that any
- 14 person has violated any provision of paragraph (1), such person shall be
- 15 ineligible to receive any contract or subcontract with this state pursuant to
- 16 the debarment or suspension provisions provided under article 37 of
- 17 chapter 75 of the Kansas Statutes Annotated, and amendments thereto.
- 18 (e) This section shall be applied in a manner consistent with the
- 19 state's obligations under any applicable international agreements pertaining
- 20 to state government procurement.
- 21 (f) State agencies shall give preference to goods that are
- 22 manufactured in Kansas when possible, subject to the provisions of K.S.A.
- 23 75-3740a, and amendments thereto.
- 24 Sec. 4. This act shall take effect and be in force from and after its
- 25 publication in the statute book.