

SENATE BILL No. 176

By Senators Hensley, Faust-Goudeau, Francisco, Haley, Hawk, Holland, Kelly, Pettey and Rogers

2-8

1 AN ACT pertaining to the purchase of goods made or manufactured in the
2 United States; enacting the Kansas buy American act.

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

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

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

8 Sec. 2. As used in this act, the following words and phrases shall
9 have the meanings ascribed to them in this section:

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

12 (b) "Airport" shall have the meaning ascribed to such term in K.S.A.
13 3-701, and amendments thereto.

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

16 (d) "Manufactured" means:

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

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

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

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

29 (e) "Public building" means any structure or building which is:

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

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

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

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

35 (f) "Public works" means and includes any of the following that are

1 owned or leased and operated by a state agency:

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

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

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

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

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

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

16 (j) "United States" means the United States of America and includes
17 all territory, continental or insular, subject to the jurisdiction of the United
18 States.

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

26 (b) The provisions of subsection (a) shall not apply in any case or
27 category of cases in which the agency head of a state agency finds that:

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

29 (2) such materials and products are not produced in the United States
30 in sufficient and reasonably available quantities and of a satisfactory
31 quality; or

32 (3) that the inclusion of domestic material will increase the cost of the
33 overall project contract by more than 25%.

34 (c) If the agency head of a state agency receives a request for a
35 waiver under subsection (b), the secretary shall provide notice of and an
36 opportunity for public comment on the request at least 30 days before
37 making a finding based on the request of the agency head.

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

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

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

1 state agency.

2 (2) If the secretary issues a waiver under subsection (b), the secretary
3 shall publish in the Kansas register a detailed justification for the waiver
4 that:

5 (A) Addresses the public comments received under subsection (c)(1);
6 and

7 (B) is published before the waiver takes effect.

8 (d) (1) No person shall intentionally:

9 (A) Affix a label bearing a "Made in America" inscription, or any
10 inscription with the same meaning, to any iron, steel or manufactured good
11 used in projects to which this section applies, sold in or shipped to this
12 state that was not made in the United States; or

13 (B) represent that any iron, steel or manufactured good used in
14 projects to which this section applies was produced in the United States
15 when, in fact, such good was not produced in the United States.

16 (2) If it has been determined by a court or the secretary that any
17 person has violated any provision of paragraph (1), such person shall be
18 ineligible to receive any contract or subcontract with this state pursuant to
19 the debarment or suspension provisions provided under article 37 of
20 chapter 75 of the Kansas Statutes Annotated, and amendments thereto.

21 (e) This section shall be applied in a manner consistent with the
22 state's obligations under any applicable international agreements pertaining
23 to government procurement.

24 (f) The state agency shall give preference to goods that are
25 manufactured in Kansas when possible.

26 Sec. 4. This act shall take effect and be in force from and after its
27 publication in the statute book.