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S.P. 297

In Senate, March 7, 2017

An Act To Help Maine Manufacturing

Reference to the Committee on State and Local Government suggested and ordered printed.

A handwritten signature in cursive script, reading 'Heather J.R. Priest'.

HEATHER J.R. PRIEST
Secretary of the Senate

Presented by Senator SAVIELLO of Franklin.

Cosponsored by Senator: KEIM of Oxford, Representative: BLACK of Wilton.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 5 MRSA c. 153, sub-c. 3** is enacted to read:

3 **SUBCHAPTER 3**

4 **MAINE BUY AMERICA ACT**

5 **§1777. Short title**

6 This Act may be known and cited as "the Maine Buy America Act."

7 **§1778. Definitions**

8 As used in this subchapter, unless the context otherwise indicates, the following
9 terms have the following meanings.

10 **1. Department.** "Department" means the Department of Administrative and
11 Financial Services.

12 **2. Emergency life safety and property safety goods.** "Emergency life safety and
13 property safety goods" means any goods that are part of or for addition to a system
14 designed to prevent, respond to, alert regarding, suppress, control or extinguish an
15 emergency or the cause of an emergency, or goods used to assist evacuation in the event
16 of an emergency, that threatens life or property. "Emergency life safety and property
17 safety goods" includes, but is not limited to, goods relating to systems or items for fire
18 alarm, fire sprinkling, fire suppression, fire extinguishing, security, gas detection,
19 intrusion detection, access control, video surveillance and recording, mass notification,
20 public address, emergency lighting, patient wandering, infant tagging and nurse call.

21 **3. Manufactured good.** "Manufactured good" means:

22 A. An article, material or supply, including any preassembled items, brought to a
23 construction site for incorporation into a public building or public work; and

24 B. Articles, materials or supplies acquired for public use.

25 **4. Manufactured in the United States.** "Manufactured in the United States" means:

26 A. In the case of an iron or steel product, all manufacturing takes place in the United
27 States, except metallurgical processes involving the refinement of steel additives; and

28 B. In the case of a manufactured good other than an iron or steel product:

29 (1) All of the manufacturing processes for the manufactured good take place in
30 the United States; and

31 (2) The origin of the manufactured good's components or subcomponents meets
32 a minimum level of domestic content, as defined in rules established by the
33 department pursuant to section 1780.

1 **5. Public agency.** "Public agency" means the State and its departments, agencies,
2 boards, commissions and institutions but does not mean a county, municipality or school
3 administrative unit.

4 **6. Public building or public work.** "Public building or public work" means any
5 structure, building, highway, waterway, street, bridge, transit system, airport or other
6 betterment, work or improvement whether of a permanent or temporary nature and
7 whether for governmental or proprietary use. "Public building or public work" includes,
8 but is not limited to, any railway; street railway; subway; elevated and monorail
9 passenger rolling stock; passenger and rail rolling stock; self-propelled car; gallery car;
10 locomotive; passenger bus; wires, poles and equipment for electrification of a transit
11 system; rails; tracks; roadbed; guideway; elevated structure; school; hospital; station;
12 terminal; dock; and shelter; and repairs to any such public building or public work.

13 **7. United States.** "United States" means the United States of America and any
14 territory or insular possession subject to the jurisdiction of the United States.

15 **§1779. Use of American-made materials**

16 **1. Mandatory contract provision.** Notwithstanding any other provision of law to
17 the contrary, a contract for the construction, reconstruction, alteration, repair,
18 improvement or maintenance of a public building or public work made by a public
19 agency must contain a provision that the manufactured goods, including iron and steel,
20 used or supplied in the performance of the contract or any subcontract to the contract
21 must be manufactured in the United States.

22 **2. Exceptions.** A public agency may apply to the Governor or the Governor's
23 designee for a waiver of the requirements of subsection 1 in any case or category of cases
24 in which the executive head of a public agency finds:

25 **A.** That the application of the requirements of subsection 1 would be inconsistent
26 with the public interest;

27 **B.** That the necessary manufactured goods are not produced in the United States in
28 sufficient and reasonably available quantities and of a satisfactory quality;

29 **C.** That inclusion of manufactured goods manufactured in the United States will
30 increase the cost of the overall project contract by more than 25%; or

31 **D.** The cost of the total contract for the construction, reconstruction, alteration,
32 repair, improvement or maintenance of a public building or public work is below a
33 minimum project cost as established by rules of the department pursuant to section
34 1780.

35 **3. Public review and comment.** The department shall implement procedures to
36 allow a reasonable amount of time for public review and comment on a requested waiver
37 under subsection 2 before making a finding based on the request and shall publish on the
38 department's publicly accessible website, or in a newspaper of general circulation in the
39 area of the proposed work, a detailed justification for any waiver granted.

1 reasonably available quantities and of a satisfactory quality or that inclusion of
2 manufactured goods made in the United States will increase the cost of the overall project
3 contract by more than 25%. The Department of Administrative and Financial Services is
4 directed to develop rules regarding the Act, including rules to guide the waiver process
5 and the process for public review and comment regarding requests for a waiver.

6 The bill requires that if the Department of Administrative and Financial Services has
7 reason to believe that any person, business or other entity has intentionally made
8 fraudulent representations about the domestic content of a manufactured good or has
9 intentionally violated any provision of the Act, the department must, after a hearing,
10 debar that person, business or other entity from contracts or subcontracts with the State
11 for 2 years.

12 The bill provides that the provisions of this legislation must be applied in a manner
13 consistent with the State's obligations under any applicable international agreements
14 pertaining to government procurement.