

**Senate Bill No. 260**

(By Senators Yost and Kessler)

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[Introduced January 20, 2015; referred to the Committee on Labor; and then to the Committee on Finance.]

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**FISCAL  
NOTE**

A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5A-3-61, relating to requiring materials, supplies, equipment and other items purchased by the state and its agencies to be made in the United States; providing exceptions; and defining terms.

*Be it enacted by the Legislature of West Virginia:*

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §5A-3-61, to read as follows:

**ARTICLE 3. PURCHASING DIVISION.**

**§5A-3-61. Purchase of goods and equipment manufactured in the United States; definitions; exceptions.**

(a) In any instance that a contract for construction or a purchase of supplies, material, equipment and any other articles or things by the director or by a state department is required under the provisions of this article to be made upon competitive bids, all bids shall specify and require that

1 goods and equipment comprising a substantial portion of the total bid amount shall be American  
2 made and no bid shall be approved that does not comply with this section.

3 (b) As used in this section:

4 (1) "Goods and equipment" means supplies, material, equipment and any other articles or  
5 things used by or furnished to a department, agency or institution of state government pursuant to  
6 a contract or purchase agreement under this article, but does not mean a vendor's equipment that  
7 does not remain with or otherwise become the property of the state.

8 (2) "Substantial portion of the total bid amount" means an item of goods or equipment of  
9 which the cost is equivalent to or greater than \$25,000 or five percent, whichever is less, of the total  
10 price of the bid.

11 (3) "American-made" means that the item is manufactured in the United States or assembled  
12 in the United States from component parts or materials, regardless of origin.

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

15 (c) Notwithstanding any provision of subsection (a) of this section to the contrary, the  
16 director of the Purchasing Division may, in writing, authorize the use of foreign goods and  
17 equipment if:

18 (1) The specified goods or equipment are necessary for the protection and safety of the public  
19 or property, and no comparable American-made products are available;

20 (2) The director of the Purchasing Division determines that specified goods and equipment  
21 are not produced in the United States in sufficient quantity or otherwise are not reasonably available  
22 to meet contract requirements; or

1           (3) The director of the Purchasing Division determines that an item of American-made goods  
2 or equipment specified by the state agency exceed the cost of comparable foreign-made goods or  
3 equipment by more than ten percent of the cost of that item.

NOTE: The purpose of this bill is to require materials, supplies, equipment and other items purchased by the state and its agencies to be made in the United States. The bill provides exceptions. The bill also defines terms.

This section is new; therefore, strike-throughs and underscoring have been omitted.