

109TH CONGRESS
2^D SESSION

H. R. 4946

To prohibit the Department of Homeland Security from procuring certain items directly related to the national security unless the items are grown, reprocessed, reused, or produced in the United States.

IN THE HOUSE OF REPRESENTATIVES

MARCH 14, 2006

Mr. HAYES (for himself, Mr. ROGERS of Kentucky, Mr. HUNTER, Mr. MCGOVERN, Mr. SPRATT, Mr. WILSON of South Carolina, Mrs. MYRICK, Ms. FOXX, Mr. COBLE, Mr. GOODE, Mr. GORDON, Mr. MARSHALL, Mr. MCCOTTER, Mr. WAMP, Mr. JONES of North Carolina, Mr. DAVIS of Tennessee, Mr. SIMMONS, Mr. ISTOOK, Ms. BORDALLO, Mr. MCHENRY, Mr. TURNER, and Mr. PUTNAM) introduced the following bill; which was referred to the Committee on Homeland Security

A BILL

To prohibit the Department of Homeland Security from procuring certain items directly related to the national security unless the items are grown, reprocessed, reused, or produced in the United States.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Berry Amendment Ex-
5 tension Act”.

1 **SEC. 2. BUY-AMERICAN REQUIREMENT IMPOSED ON DE-**
2 **PARTMENT OF HOMELAND SECURITY; EXCEP-**
3 **TIONS.**

4 (a) **REQUIREMENT.**—Except as provided in sub-
5 sections (c) through (e), funds appropriated or otherwise
6 available to the Department of Homeland Security may
7 not be used for the procurement of an item described in
8 subsection (b) if the item is not grown, reprocessed, re-
9 used, or produced in the United States.

10 (b) **COVERED ITEMS.**—An item referred to in sub-
11 section (a) is any of the following, if the item is directly
12 related to the national security interests of the United
13 States:

14 (1) An article or item of—

15 (A) clothing and the materials and compo-
16 nents thereof, other than sensors, electronics, or
17 other items added to, and not normally associ-
18 ated with, clothing (and the materials and com-
19 ponents thereof);

20 (B) tents, tarpaulins, or covers;

21 (C) cotton and other natural fiber prod-
22 ucts, woven silk or woven silk blends, spun silk
23 yarn for cartridge cloth, synthetic fabric or
24 coated synthetic fabric (including all textile fi-
25 bers and yarns that are for use in such fabrics),
26 canvas products, or wool (whether in the form

1 of fiber or yarn or contained in fabrics, mate-
2 rials, or manufactured articles); or

3 (D) any item of individual equipment man-
4 ufactured from or containing such fibers, yarns,
5 fabrics, or materials.

6 (2) Specialty metals, including stainless steel
7 flatware.

8 (3) Hand or measuring tools.

9 (c) AVAILABILITY EXCEPTION.—Subsection (a) does
10 not apply to the extent that the Secretary of Homeland
11 Security determines that satisfactory quality and suffi-
12 cient quantity of any such article or item described in sub-
13 section (b)(1) or specialty metals (including stainless steel
14 flatware) grown, reprocessed, reused, or produced in the
15 United States cannot be procured as and when needed at
16 United States market prices.

17 (d) EXCEPTION FOR CERTAIN PROCUREMENTS OUT-
18 SIDE THE UNITED STATES.—Subsection (a) does not
19 apply to the following:

20 (1) Procurements by vessels in foreign waters.

21 (2) Emergency procurements or procurements
22 of perishable foods by an establishment located out-
23 side the United States for the personnel attached to
24 such establishment.

1 (e) EXCEPTION FOR SMALL PURCHASES.—Sub-
2 section (a) does not apply to purchases for amounts not
3 greater than the simplified acquisition threshold referred
4 to in section 2304(g) of title 10, United States Code.

5 (f) APPLICABILITY TO CONTRACTS AND SUB-
6 CONTRACTS FOR PROCUREMENT OF COMMERCIAL
7 ITEMS.—This section is applicable to contracts and sub-
8 contracts for the procurement of commercial items not-
9 withstanding section 34 of the Office of Federal Procure-
10 ment Policy Act (41 U.S.C. 430).

11 (g) GEOGRAPHIC COVERAGE.—In this section, the
12 term “United States” includes the possessions of the
13 United States.

14 (h) NOTIFICATION REQUIRED WITHIN 7 DAYS
15 AFTER CONTRACT AWARD IF CERTAIN EXCEPTIONS AP-
16 PLIED.—In the case of any contract for the procurement
17 of an item described in subsection (b)(1), if the Secretary
18 of Homeland Security applies an exception set forth in
19 subsection (c) with respect to that contract, the Secretary
20 shall, not later than 7 days after the award of the con-
21 tract, post a notification that the exception has been ap-
22 plied on the Internet site maintained by the General Serv-
23 ices Administration known as FedBizOps.gov (or any suc-
24 cessor site).

25 (i) TRAINING DURING FISCAL YEAR 2006.—

1 (1) IN GENERAL.—The Secretary of Homeland
2 Security shall ensure that each member of the acqui-
3 sition workforce in the Department of Homeland Se-
4 curity who participates personally and substantially
5 in the acquisition of textiles on a regular basis re-
6 ceives training during fiscal year 2006 on the re-
7 quirements of this section and the regulations imple-
8 menting this section.

9 (2) INCLUSION OF INFORMATION IN NEW
10 TRAINING PROGRAMS.—The Secretary shall ensure
11 that any training program for the acquisition work-
12 force developed or implemented after the date of the
13 enactment of this Act includes comprehensive infor-
14 mation on the requirements described in paragraph
15 (1).

16 (j) CONSISTENCY WITH INTERNATIONAL AGREE-
17 MENTS.—

18 (1) IN GENERAL.—No provision of this Act
19 shall apply to the extent the Secretary of Homeland
20 Security, in consultation with the United States
21 Trade Representative, determines that it is in incon-
22 sistent with United States obligations under an
23 international agreement.

24 (2) REPORT.—The Secretary of Homeland Se-
25 curity shall submit a report each year to Congress

1 containing, with respect to the year covered by the
2 report—

3 (A) a list of each provision of this Act that
4 did not apply during that year pursuant to a
5 determination by the Secretary under para-
6 graph (1); and

7 (B) a list of each contract awarded by the
8 Department of Homeland Security during that
9 year without regard to a provision in this Act
10 because that provision was made inapplicable
11 pursuant to such a determination.

12 (k) EFFECTIVE DATE.—This section applies with re-
13 spect to contracts entered into by the Department of
14 Homeland Security after the date of the enactment of this
15 Act.

○