H. R. 679

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, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

February 11, 2011

Mr. Kissell (for himself, Mr. Michaud, Mr. Ross of Arkansas, Ms. Sutton, Mr. Lipinski, Mr. Jones, Ms. Woolsey, Ms. Linda T. Sánchez of California, Mr. McCotter, Mr. Filner, Mr. Duncan of Tennessee, Ms. Foxx, Mr. McIntyre, Mr. Grijalva, Mr. Manzullo, Mr. Coble, Mr. Thompson of Mississippi, Mr. DeFazio, Mr. Aderholt, Mr. Ryan of Ohio, Mr. Shuler, Mr. Kildee, Mr. Pascrell, Mr. Boswell, Mr. Holden, Mr. Braley of Iowa, and Mrs. Myrick) 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, and for other purposes.

1 Be it enacted by the Senate and House of Representa-
2 tives of the United States of America in Congress assembled,
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4 SECTION 1. SHORT TITLE.
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6 This Act may be cited as the “Berry Amendment Ex-
SEC. 2. BUY AMERICAN REQUIREMENT IMPOSED ON DEPARTMENT OF HOMELAND SECURITY; EXCEPTIONS.

(a) IN GENERAL.—Subtitle H of title VIII of the Homeland Security Act of 2002 (6 U.S.C. 451 et seq.) is amended by adding at the end the following new section:

“SEC. 890. BUY AMERICAN REQUIREMENT; EXCEPTIONS.

“(a) REQUIREMENT.—Except as provided in subsection (c) through (e), the Secretary may not procure an item described in subsection (b) if the item is not grown, reprocessed, reused, or produced in the United States.

“(b) COVERED ITEMS.—

“(1) IN GENERAL.—An item referred to in subsection (a) is any item described in paragraph (2), if the item is directly related to the national security interests of the United States.

“(2) ITEMS DESCRIBED.—An item described in this paragraph is any article or item of—

“(A) clothing and the materials and components thereof, other than sensors, electronics, or other items added to, and not normally associated with, clothing (and the materials and components thereof);

“(B) tents, tarpaulins, or covers;
“(C) cotton and other natural fiber products, woven silk or woven silk blends, spun silk yarn for cartridge cloth, synthetic fabric or coated synthetic fabric (including all textile fibers and yarns that are for use in such fabrics), canvas products, or wool (whether in the form of fiber or yarn or contained in fabrics, materials, or manufactured articles); or

“(D) any item of individual equipment manufactured from or containing such fibers, yarns, fabrics, or materials.

“(c) Availability Exception.—Subsection (a) does not apply to the extent that the Secretary determines that satisfactory quality and sufficient quantity of any such article or item described in subsection (b)(2) grown, reprocesed, reused, or produced in the United States cannot be procured as and when needed.

“(d) Exception for Certain Procurements Outside the United States.—Subsection (a) does not apply to the following:

“(1) Procurements by vessels in foreign waters.

“(2) Emergency procurements.

“(e) Exception for Small Purchases.—Subsection (a) does not apply to purchases for amounts not
greater than the simplified acquisition threshold referred
to in section 2304(g) of title 10, United States Code.

“(f) **Applicability to Contracts and Sub-contracts for Procurement of Commercial Items.**—This section is applicable to contracts and sub-contracts for the procurement of commercial items notwithstanding section 34 of the Office of Federal Procurement Policy Act (41 U.S.C. 430).

“(g) **Geographic Coverage.**—In this section, the term ‘United States’ includes the possessions of the United States.

“(h) **Notification Required Within 7 Days After Contract Award if Certain Exceptions Applied.**—In the case of any contract for the procurement of an item described in subsection (b)(2), if the Secretary applies an exception set forth in subsection (e) with respect to that contract, the Secretary shall, not later than 7 days after the award of the contract, post a notification that the exception has been applied.

“(i) **Training.**—

“(1) **In General.**—The Secretary shall ensure that each member of the acquisition workforce who participates personally and substantially in the acquisition of textiles on a regular basis receives train-
ing on the requirements of this section and the regulations implementing this section.

“(2) INCLUSION OF INFORMATION IN NEW TRAINING PROGRAMS.—The Secretary shall ensure that any training program for the acquisition workforce developed or implemented after the date of the enactment of this section includes comprehensive information on the requirements described in paragraph (1).

“(j) CONSISTENCY WITH INTERNATIONAL AGREEMENTS.—This section shall be applied in a manner consistent with United States obligations under international agreements.”.

(b) EFFECTIVE DATE.—Section 890 of the Homeland Security Act of 2002, as added by subsection (a), shall apply with respect to contracts entered into by the Department of Homeland Security on and after the date occurring 180 days after the date of the enactment of this Act.