

111TH CONGRESS
2D SESSION

H. R. 3116

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 16, 2010

Received; read twice and referred to the Committee on Homeland Security and
Governmental Affairs

AN ACT

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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Berry Amendment Ex-
3 tension Act”.

4 **SEC. 2. BUY AMERICAN REQUIREMENT IMPOSED ON DE-**
5 **PARTMENT OF HOMELAND SECURITY; EXCEP-**
6 **TIONS.**

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

10 **“SEC. 890. BUY AMERICAN REQUIREMENT; EXCEPTIONS.**

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

16 “(b) COVERED ITEMS.—

17 “(1) IN GENERAL.—An item referred to in sub-
18 section (a) is any item described in paragraph (2),
19 if the item is directly related to the national security
20 interests of the United States.

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

23 “(A) clothing and the materials and com-
24 ponents thereof, other than sensors, electronics,
25 or other items added to, and not normally asso-

1 ciated with, clothing (and the materials and
2 components thereof);

3 “(B) tents, tarpaulins, or covers;

4 “(C) cotton and other natural fiber prod-
5 ucts, woven silk or woven silk blends, spun silk
6 yarn for cartridge cloth, synthetic fabric or
7 coated synthetic fabric (including all textile fi-
8 bers and yarns that are for use in such fabrics),
9 canvas products, or wool (whether in the form
10 of fiber or yarn or contained in fabrics, mate-
11 rials, or manufactured articles); or

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

15 “(c) AVAILABILITY EXCEPTION.—Subsection (a)
16 does not apply to the extent that the Secretary determines
17 that satisfactory quality and sufficient quantity of any
18 such article or item described in subsection (b)(2) grown,
19 reprocessed, reused, or produced in the United States can-
20 not be procured as and when needed.

21 “(d) EXCEPTION FOR CERTAIN PROCUREMENTS
22 OUTSIDE THE UNITED STATES.—Subsection (a) does not
23 apply to the following:

24 “(1) Procurements by vessels in foreign waters.

25 “(2) Emergency procurements.

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)(2), if the Secretary
18 applies an exception set forth in subsection (c) with re-
19 spect to that contract, the Secretary shall, not later than
20 7 days after the award of the contract, post a notification
21 that the exception has been applied.

22 “(i) TRAINING.—

23 “(1) IN GENERAL.—The Secretary shall ensure
24 that each member of the acquisition workforce who
25 participates personally and substantially in the ac-

11 “(j) CONSISTENCY WITH INTERNATIONAL AGREE-
12 MENTS.—This section shall be applied in a manner con-
13 sistent with United States obligations under international
14 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.

Passed the House of Representatives September 15,
2010.

Attest: **LORRAINE C. MILLER,**
Clerk.