

As Introduced

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REPRESENTATIVES D. Miller, Oakar, Sullivan, Woodard, Patton, Flannery,
Sulzer, Metelsky, Cirelli, Redfern, Jerse, Hartnett, Krupinski, Sferra, Ford,
Callender, Bocchieri, Barrett, Allen, Jones

A BILL

To amend sections 125.09, 125.11, and 153.011 of the
Revised Code to designate iron slag and steel slag
as products included in both the Buy Ohio Program
and the requirement that steel used in capital
improvement projects be made in the United States.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 125.09, 125.11, and 153.011 of the
Revised Code be amended to read as follows:

Sec. 125.09. (A)(~~1~~) Pursuant to section 125.07 of the Revised
Code, the department of administrative services may prescribe ~~such~~
conditions under which competitive sealed bids will be received
and terms of the proposed purchase as it considers necessary~~r~~
~~provided, that all such.~~ All of these conditions and terms shall
be reasonable and shall not unreasonably restrict competition, ~~and~~
~~bidders.~~ Bidders may bid upon all or any item of the ~~supplies~~
products or services listed in ~~such~~ the notice of the proposed
purchase. Those bidders claiming the preference for United States
and Ohio products outlined in this chapter shall designate in
their bids either that the product to be supplied is an Ohio

product or that under the rules established by the director of 19
administrative services they qualify as having a significant Ohio 20
economic presence. 21

(2) As used in this section and in section 125.11 of the 22
Revised Code: 23

(a) "Ohio product" and "product" include iron slag and steel 24
slag. 25

(b) "Iron slag" means a synthetic mineral that has all of the 26
following characteristics: 27

(i) It forms by geochemical action at furnace operating 28
temperatures; 29

(ii) It is co-produced in a blast furnace with the production 30
of iron; 31

(iii) It forms in smelting operations by combining a flux, 32
such as limestone or dolomite, with the impurities in iron ore; 33

(iv) It is nonmetallic and consists of silicates and 34
aluminosilicates of calcium and other bases. 35

(c) "Steel slag" means a synthetic mineral that has all of 36
the following characteristics: 37

(i) It forms by geochemical action at furnace operating 38
temperatures; 39

(ii) It is co-produced in an open hearth, basic oxygen, or 40
electric arc furnace with the production of steel; 41

(iii) It forms in the conversion of iron to steel as lime is 42
added to remove the impurities from iron during the conversion; 43

(iv) It is rich in metallic oxides and phosphorus. 44

(B) The department may require that each bidder provide 45
sufficient information about the energy efficiency or energy usage 46

of the bidder's product or service.

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(C) The director of administrative services shall, by rule adopted pursuant to Chapter 119. of the Revised Code, prescribe criteria and procedures for use by all state agencies in giving preference to United States and Ohio products as required by division (B) of section 125.11 of the Revised Code. The rules shall extend to the following:

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(1) Criteria for determining that a product is produced or mined in the United States rather than in another country or territory;

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(2) Criteria for determining that a product is ~~produced or mined in an~~ Ohio product;

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(3) Information to be submitted by bidders as to the nature of a product and the location where it is produced or mined;

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(4) Criteria and procedures to be used by the director to qualify bidders located in states bordering ~~Ohio~~ this state who might otherwise be excluded from being awarded a contract by operation of this section and section 125.11 of the Revised Code. The criteria and procedures shall recognize the level and regularity of interstate commerce between ~~Ohio~~ this state and the border states and provide that the non-Ohio businesses may qualify for award of a contract as long as they are located in a state that imposes no greater restrictions than are contained in this section and section 125.11 of the Revised Code upon persons located in ~~Ohio~~ this state selling products or services to agencies of that state. The criteria and procedures shall also provide that a non-Ohio business shall not bid on a contract for state printing in this state if the business is located in a state that excludes Ohio businesses from bidding on state printing contracts in that state.

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(5) Criteria and procedures to be used to qualify bidders

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whose manufactured products, except for mined products, are
produced in other states or in North America, but the bidders have
a significant Ohio economic presence in terms of the number of
employees or capital investment a bidder has in this state.
Bidders with a significant Ohio economic presence shall qualify
for award of a contract on the same basis as if their products
were produced in this state.

(6) Criteria and procedures for the director to grant waivers
of the requirements of division (B) of section 125.11 of the
Revised Code on a contract-by-contract basis where compliance with
those requirements would result in the state agency paying an
excessive price for the product or acquiring a disproportionately
inferior product;

(7) ~~Such other~~ Other requirements or procedures reasonably
necessary to implement the system of preferences established
pursuant to division (B) of section 125.11 of the Revised Code.

(D) In adopting the rules required under ~~this~~ division (C) of
this section, the director shall, to the maximum extent possible,
conform to the requirements of the federal "Buy America Act," 47
Stat. 1520~~7~~, (1933), 41 U.S.C.A. 10a-10d, as amended, and to the
regulations adopted ~~thereunder~~ under that act.

Sec. 125.11. (A) Subject to division (B) of this section,
contracts required to be awarded pursuant to competitive sealed
bidding, including ~~such~~ contracts awarded under section 125.081 of
the Revised Code, shall be awarded to the lowest responsive and
responsible bidder on each item in accordance with section 9.312
of the Revised Code. When the contract is for meat products as
defined in section 918.01 of the Revised Code or poultry products
as defined in section 918.21 of the Revised Code, only those bids
received from vendors offering products from establishments on the
current list of meat and poultry vendors established and

maintained by the director of administrative services under 109
section 125.17 of the Revised Code shall be eligible for 110
acceptance. The department of administrative services may accept 111
or reject any or all bids in whole or by items, except that when 112
the contract is for services or ~~supplies~~ products available from a 113
qualified nonprofit agency pursuant to sections 4115.31 to 4115.35 114
of the Revised Code, the contract shall be awarded to that agency. 115

(B) Prior to awarding a contract under division (A) of this 116
section, the department of administrative services or the state 117
agency responsible for evaluating a contract for the purchase of 118
~~goods~~ products shall evaluate the bids received according to the 119
criteria and procedures established pursuant to divisions (C)(1) 120
and (2) of section 125.09 of the Revised Code for determining if a 121
product is produced or mined in the United States and if a product 122
is ~~produced or mined in an~~ Ohio product. The department or other 123
state agency shall first remove bids that offer ~~supplies~~ products 124
that have not been or that will not be produced or mined in the 125
United States. From among the remaining bids, the department or 126
other state agency shall select the lowest responsive and 127
responsible bid, in accordance with section 9.312 of the Revised 128
Code, from among the bids that offer ~~goods~~ products that ~~have been~~ 129
~~produced or mined in~~ are Ohio products where sufficient 130
competition can be generated within ~~Ohio~~ this state to ensure that 131
compliance with these requirements will not result in an excessive 132
price for the product or acquiring a disproportionately inferior 133
product. If there are two or more qualified bids that offer ~~goods~~ 134
~~which have been produced or mined in~~ products that are Ohio 135
products, it shall be deemed that there is sufficient competition 136
to prevent an excessive price for the product or the acquiring of 137
a disproportionately inferior product. 138

(C) Division (B) of this section applies to contracts for 139
which competitive bidding is waived by the controlling board. 140

(D) Division (B) of this section does not apply to the 141
purchase by the division of liquor control of spirituous liquor. 142

(E) The director of administrative services shall publish in 143
the form of a model act for use by counties, townships, ~~and~~ 144
municipal corporations, or any other political subdivision 145
described in division (B) of section 125.04 of the Revised Code, a 146
system of preferences for Ohio products, for products mined and 147
produced in ~~Ohio and in~~ the United States, and for Ohio-based 148
contractors. The model act shall reflect substantial equivalence 149
to the system of preferences in purchasing and public improvement 150
contracting procedures under which the state operates pursuant to 151
this chapter and section 153.012 of the Revised Code. To the 152
maximum extent possible, consistent with the Ohio system of 153
preferences in purchasing and public improvement contracting 154
procedures, the model act shall incorporate all of the 155
requirements of the federal "Buy America Act," 47 Stat. 1520 156
(1933), 41 U.S.C. 10a to 10d, as amended, and the rules adopted 157
~~thereunder~~ under that act. 158

~~Prior to~~ Before and during the development and promulgation 159
of the model act, the director shall consult with appropriate 160
statewide organizations representing counties, townships, and 161
municipal corporations so as to identify the special requirements 162
and concerns these political subdivisions have in their purchasing 163
and public improvement contracting procedures. The director shall 164
promulgate the model act by rule adopted pursuant to Chapter 119. 165
of the Revised Code and shall revise the act as necessary to 166
reflect changes in this chapter or section 153.012 of the Revised 167
Code. 168

The director shall make available copies of the model act, 169
supporting information, and technical assistance to any township, 170
county, or municipal corporation wishing to incorporate the 171
provisions of the act into its purchasing or public improvement 172

contracting procedure.

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Sec. 153.011. (A)(1) Whenever any building or structure,
including highway improvements, in whole or in part supported by
the state and not yet bid, is to be erected or constructed, ~~or~~
whenever additions, alterations, or structural or other
improvements are to be made, or whenever heating, cooling, or
ventilating plants or other equipment is to be installed or
material supplied therefor, and if any steel products are to be
used or supplied in the erection, construction, repair,
installation, or improvement project, only steel products as
defined in this division shall be used or supplied in the project.

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(2) As used in this division:

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(a) "Steel products" means products rolled, formed, shaped,
drawn, extruded, forged, cast, fabricated, or otherwise similarly
processed, or processed by a combination of two or more of ~~such~~
those operations, from steel made in the United States by the open
hearth, basic oxygen, electric furnace, bessemer, or other
steel-making process. "Steel products" include iron slag and steel
slag, both as defined in section 125.09 of the Revised Code.

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

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(B) Pursuant to section 5525.21 of the Revised Code, the
director of transportation may authorize the use of a minimal
amount of foreign steel products in contracts for public bridge
projects.

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Section 2. That existing sections 125.09, 125.11, and 153.011
of the Revised Code are hereby repealed.

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Section 3. Section 125.11 of the Revised Code is presented in 202
this act as a composite of the section as amended by both Am. Sub. 203
S.B. 99 and Am. Sub. S.B. 162 of the 121st General Assembly. This 204
is in recognition of the principle stated in division (B) of 205
section 1.52 of the Revised Code that such amendments are to be 206
harmonized where not substantively irreconcilable and constitutes 207
a legislative finding that such is the resulting version in effect 208
prior to the effective date of this act. 209