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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 2134 Session of  
2018

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INTRODUCED BY HAHN, MAKO, J. McNEILL, MILLARD, BARBIN, READSHAW,  
HEFFLEY, SAYLOR, SCHLOSSBERG, PASHINSKI, DRISCOLL, SCHWEYER,  
NEILSON, REESE, CALTAGIRONE, WARD, COX AND WATSON,  
MARCH 9, 2018

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REFERRED TO COMMITTEE ON STATE GOVERNMENT, MARCH 9, 2018

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AN ACT

1 Requiring public agencies to include in contracts for public  
2 works a provision that only cement and concrete produced or  
3 manufactured in the United States may be used.

4 The General Assembly of the Commonwealth of Pennsylvania  
5 hereby enacts as follows:

6 Section 1. Short title.

7 This act shall be known and may be cited as the Cement and  
8 Concrete Procurement Act.

9 Section 2. Definitions.

10 The following words and phrases when used in this act shall  
11 have the meanings given to them in this section unless the  
12 context clearly indicates otherwise:

13 "Cement." A powdery substance made using a closely  
14 controlled chemical combination of calcium, silicon, aluminum,  
15 iron and other ingredients, that forms concrete when mixed with  
16 sand, gravel and water.

17 "Concrete." A mixture of cement, sand, aggregate and water

1 that is malleable when mixed and strong and durable when  
2 hardened.

3 "Public agency." Any of the following:

4 (1) The Commonwealth and its departments, boards,  
5 commissions and agencies.

6 (2) A county, city, borough, township, school district  
7 or any other governmental unit or district.

8 (3) The State Public School Building Authority, the  
9 State Highway and Bridge Authority or any other authority  
10 created or organized by the Commonwealth.

11 (4) A municipal, school or other authority created or  
12 organized by a county, city, borough, township or school  
13 district or combination thereof.

14 (5) Any other public body, authority, officer, agency or  
15 instrumentality, whether exercising a governmental or  
16 proprietary function.

17 "Public work." A structure, building, highway, waterway,  
18 street, bridge, transit system, airport or other betterment,  
19 work or improvement whether of a permanent or temporary nature  
20 and whether for governmental or proprietary use.

21 "United States." The United States of America, including all  
22 territories subject to the jurisdiction of the United States.

23 Section 3. Public works contracts.

24 (a) Contract requirement.--Every public agency shall require  
25 that a contract for the construction, reconstruction,  
26 alteration, repair, improvement or maintenance of public works  
27 contain a provision that all cement or concrete used or supplied  
28 in performance of the contract or any subcontract must be  
29 produced or manufactured in the United States.

30 (b) Exceptions.--A public agency may waive the requirements

1 of subsection (a) if the head of the public agency finds any of  
2 the following:

3 (1) The application of the requirements of subsection  
4 (a) would be inconsistent with the public interest.

5 (2) The necessary cement or concrete is not produced or  
6 manufactured in the United States in sufficient and  
7 reasonably available quantities and is not of a satisfactory  
8 quality.

9 (3) The use of cement or concrete produced or  
10 manufactured in the United States will increase the cost of  
11 the overall contract by an unreasonable amount.

12 (4) The cost of the total contract for the construction,  
13 reconstruction, alteration, repair, improvement or  
14 maintenance of the public work is below a minimum project  
15 cost established by the head of the public agency.

16 Section 4. Payments.

17 (a) Withholding payment.--A public agency may not authorize,  
18 provide for or make any payments to a person under a contract  
19 containing the provision required under section 3(a) unless the  
20 public agency is satisfied that the person has fully complied  
21 with the provision required under section 3(a).

22 (b) Recovery of payment.--A payment made to a person by a  
23 public agency that is prohibited under subsection (a) shall be  
24 recoverable directly from the contractor or subcontractor that  
25 did not comply with section 3(a) by either the public agency or  
26 the Attorney General upon suit filed in the court of common  
27 pleas of any county in which the contract was executed or in  
28 whole or in part performed.

29 Section 5. International trade obligations.

30 This act shall be applied in a manner consistent with the

1 Commonwealth's obligations under any applicable international  
2 agreements pertaining to government procurement.  
3 Section 6. Effective date.  
4 This act shall take effect in 60 days.