

ALL-AMERICAN FLAG ACT

R E P O R T

OF THE

COMMITTEE ON HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

TO ACCOMPANY

S. 4399

TO REQUIRE THE PURCHASE OF DOMESTICALLY MADE
FLAGS OF THE UNITED STATES OF AMERICA FOR USE
BY THE FEDERAL GOVERNMENT



DECEMBER 12, 2022.—Ordered to be printed

U.S. GOVERNMENT PUBLISHING OFFICE

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117TH CONGRESS }
2d Session }

SENATE

{ REPORT
{ 117-240

ALL-AMERICAN FLAG ACT

DECEMBER 12, 2022.—Ordered to be printed

Mr. PETERS, from the Committee on Homeland Security and Governmental Affairs, submitted the following

R E P O R T

[To accompany S. 4399]

[Including cost estimate of the Congressional Budget Office]

The Committee on Homeland Security and Governmental Affairs, to which was referred the bill (S. 4399) to require the purchase of domestically made flags of the United States of America for use by the Federal Government, having considered the same reports favorably thereon without amendment and recommends that the bill do pass.

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I. PURPOSE AND SUMMARY

S. 4399, the *All-American Flag Act*, prohibits agencies from using funds to procure a United States flag unless such flag has been manufactured in the United States from materials grown, produced, or manufactured domestically. The bill specifies exceptions to this prohibition, including an exception if flags of satisfactory quality and sufficient quantity cannot be procured as needed at market prices.

II. BACKGROUND AND NEED FOR THE LEGISLATION

According to the Department of Commerce and Census data, in 2015, the dollar value of United States imports of American flags was \$4.4 million. Of that amount, \$4 million worth of flags were imported from China.¹ The United States Government should, whenever possible, procure goods, products, and materials—especially those that are representative of our nation, such as our flag—from sources that will help American businesses compete and help American workers thrive.

Currently, the federal government is required to buy flags that contain at least 60 percent American-made materials.² S. 4399 would expand this requirement to ensure that United States flags procured by the federal government are produced entirely with American-made materials and manufactured completely in the United States.

III. LEGISLATIVE HISTORY

Senator Sherrod Brown (D–OH) introduced S. 4399 on June 14, 2022 with Senator Susan Collins (R–ME), Senator Joe Manchin (D–WV), and Senator Rick Scott (R–FL) as cosponsors. The bill was referred to the Committee on Homeland Security and Governmental Affairs.

The Committee considered S. 4399 at a business meeting on September 28, 2022. During the business meeting, S. 4399 was ordered reported favorably by voice vote *en bloc*. Senators Peters, Carper, Hassan, Sinema, Rosen, Padilla, Ossoff, Portman, Johnson, Paul, Lankford, Romney, Scott, and Hawley were present for the vote.

IV. SECTION-BY-SECTION ANALYSIS OF THE BILL, AS REPORTED

Section 1. Short title

This section designates the name of the bill as the “All-American Flag Act.”

Section 2. Requirement for agencies to buy domestically made United States flags

Subsection (a)(1) adds a new section to the end of Chapter 63 of title 41 of the United States Code. This new section—section 6310—requires that funds appropriated or otherwise available to an agency may not be used for the procurement of any United States flag unless the flag has been wholly manufactured in the United States from materials grown, procured, or manufactured in the United States.

Section 6310 provides for certain exceptions to this requirement, including for the procurement of United States flags by vessels in foreign waters, for resale purposes in military commissaries and exchanges, and for amounts less than the simplified acquisition threshold. There is also an exception for availability reasons, if the head of the agency concerned determines that satisfactory quality

¹*Census Bureau Releases Key Statistics in Honor of Independence Day*, Digital.gov (blog) (Jul. 5, 2016), (<https://digital.gov/2016/07/05/census-bureau-releases-key-statistics-in-honor-of-independence-day/>).

²Infrastructure Investment and Jobs Act, Pub. L. No. 117–58, Title IX (2021); *see also* Exec. Order No. 14005, 86 Fed. Reg. 7475 (Jan. 25, 2021).

and sufficient quantity of a flag cannot be procured as needed at market prices.

Section 6310 also provides for a Presidential waiver if the President determines one necessary to comply with any trade agreement to which the United States is a party. Finally, section 6310 defines the terms “agency” and “simplified acquisition threshold” for the purposes of this bill.

Subsection (a)(2) amends the table of sections at the beginning of Chapter 63 to include section 6310.

Subsection (b) provides that the requirements of this bill shall become applicable beginning 180 days after the bill’s enactment.

V. EVALUATION OF REGULATORY IMPACT

Pursuant to the requirements of paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee has considered the regulatory impact of this bill and determined that the bill will have no regulatory impact within the meaning of the rules. The Committee agrees with the Congressional Budget Office’s statement that the bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

VI. CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, November 9, 2022.

Hon. GARY C. PETERS,
Chairman, Committee on Homeland Security and Governmental Affairs,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed table summarizing estimated budgetary effects and mandates information for some of the legislation that has been ordered reported by the Senate Committee on Homeland Security and Governmental Affairs during the 117th Congress.

If you wish further details, we will be pleased to provide them. The CBO staff contact for each estimate is listed on the enclosed table.

Sincerely,

PHILLIP L. SWAGEL,
Director.

Enclosure.

SUMMARY ESTIMATES OF LEGISLATION ORDERED REPORTED

The Congressional Budget Act of 1974 requires the Congressional Budget Office, to the extent practicable, to prepare estimates of the budgetary effects of legislation ordered reported by Congressional authorizing committees. In order to provide the Congress with as much information as possible, the attached table summarizes information about the estimated direct spending and revenue effects of some of the legislation that has been ordered reported by the Senate Committee on Homeland Security and Governmental Affairs

during the 117th Congress. The legislation listed in this table generally would have small effects, if any, on direct spending or revenues, CBO estimates. Where possible, the table also provides information about the legislation's estimated effects on spending subject to appropriation and on intergovernmental and private-sector mandates as defined in the Unfunded Mandates Reform Act.

ESTIMATED BUDGETARY EFFECTS AND MANDATES INFORMATION

Bill Number	Title	Status	Last Action	Budget Function	Direct Spending, 2023-2032	Revenues, 2023-2032	Spending Subject to Appropriation, 2023-2027	Pay-As-You-Go Procedures Apply?	Increases On-Budget Deficits Beginning in 2033?	Mandates	Contact
S. 4399	All-American Flag Act	Ordered reported	09/28/22	800	Between zero and \$500,000	0	Between zero and \$500,000	Yes	No	No	Matthew Pickford

S. 4399 would require federal agencies, with certain exceptions, to purchase United States flags that are sourced and produced domestically. CBO estimates that enacting S. 4399 would have an insignificant effect on direct spending and no effect on revenues over the 2023-2032 period. CBO estimates that implementing the bill would increase discretionary costs by an insignificant amount over the 2023-2027 period; any spending would be subject to the availability of appropriated funds. The bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.

VII. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows: (existing law proposed to be omitted is enclosed in brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

UNITED STATES CODE

* * * * *

TITLE 41—PUBLIC CONTRACTS

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CHAPTER 63—GENERAL CONTRACT PROVISIONS

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Sec.

6301. Authorization requirement

* * * * *

6310. Requirement for agencies to buy domestically made United States flags

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SEC. 6309. HONORABLE DISCHARGE CERTIFICATE IN LIEU OF BIRTH CERTIFICATE

(a) * * *

(b) * * *

SEC. 6310. REQUIREMENT FOR AGENCIES TO BUY DOMESTICALLY MADE UNITED STATES FLAGS

(a) *REQUIREMENT.*—*Except as provided in subsections (b) through (d), funds appropriated or otherwise available to an agency may not be used for the procurement of any flag of the United States, unless such flag has been 100 percent manufactured in the United States from articles, materials, or supplies that have been grown or 100 percent produced or manufactured in the United States.*

(b) *AVAILABILITY EXCEPTION.*—*Subsection (a) does not apply to the extent that the head of the agency concerned determines that satisfactory quality and sufficient quantity of a flag described in such subsection cannot be procured as and when needed at United States market prices.*

(c) *EXCEPTION FOR CERTAIN PROCUREMENTS.*—*Subsection (a) does not apply to the following:*

(1) *Procurements by vessels in foreign waters.*

(2) *Procurements for resale purposes in any military commissary, military exchange, or non-appropriated fund instrumentality operated by an agency.*

(3) *Procurements for amounts less than the simplified acquisition threshold.*

(d) *PRESIDENTIAL WAIVER.*—

(1) *IN GENERAL.*—*The President may waive the requirement in subsection (a) if the President determines a waiver is nec-*

essary to comply with any trade agreement to which the United States is a party.

(2) NOTICE OF WAIVER.—Not later than 30 days after granting a waiver under paragraph (1), the President shall publish a notice of the waiver in the Federal Register.

(e) DEFINITIONS.—In this section:

(1) AGENCY.—The term ‘agency’ has the meaning given the term ‘executive agency’ in section 102 of title 40.

(2) SIMPLIFIED ACQUISITION THRESHOLD.—The term ‘simplified acquisition threshold’ has the meaning given that term in section 134.

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