

AMENDED IN SENATE JANUARY 6, 2014

AMENDED IN SENATE APRIL 29, 2013

AMENDED IN SENATE APRIL 2, 2013

**SENATE BILL**

**No. 661**

---

---

**Introduced by Senator Hill**

February 22, 2013

---

---

An act to amend Section 17533.7 of the Business and Professions Code, relating to advertising.

LEGISLATIVE COUNSEL'S DIGEST

SB 661, as amended, Hill. False advertising.

Existing law makes it unlawful for any person, firm, corporation, or association to sell, or offer for sale, merchandise that advertises itself as being made ~~or manufactured~~ in the United States when any article, unit, or part of the merchandise has been entirely or substantially made, manufactured, or produced outside of the United States.

~~This bill would eliminate the requirement that any article, unit, or part of the merchandise also be substantially manufactured in the United States in order for the merchandise to advertise that it is made in the United States. The bill would further provide that any merchandise has been substantially made, manufactured, or produced within the United States if specified requirements are met, including that United States manufacturing costs constitute 90% of the total manufacturing costs for the merchandise and the merchandise was last substantially transformed in the United States. The bill would also create a rebuttable presumption that the merchandise has been substantially made, manufactured, or produced within the United States if an independent~~

~~3rd-party verification organization certifies that the merchandise meets all of these requirements:~~

*This bill would establish an exception to these provisions by authorizing a person, firm, corporation, or association to sell or offer for sale in this state any merchandise labeled as being made in the United States if the merchandise is made, manufactured, or produced in the United States and has an article, unit, or part from outside of the United States that cannot be obtained within the United States, as specified, and constitutes only a negligible part of the final manufactured product.*

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1     *SECTION 1. Section 17533.7 of the Business and Professions*  
 2     *Code is amended to read:*  
 3     17533.7. (a) It is unlawful for any person, firm, corporation  
 4     or association to sell or offer for sale in this ~~State~~ *state* any  
 5     merchandise on which merchandise or on its container there  
 6     appears the words “Made in U.S.A.” “Made in America,” “U.  
 7     S.A.,” or similar words ~~when~~ *if* the merchandise or any article,  
 8     unit, or part thereof, has been entirely or substantially made,  
 9     manufactured, or produced outside of the United States.  
 10    (b) (1) *Subdivision (a) shall not apply to merchandise made,*  
 11    *manufactured, or produced in the United States that has an article,*  
 12    *unit, or part from outside of the United States, if both of the*  
 13    *following apply:*  
 14    (A) *The manufacturer of the merchandise certifies that it can*  
 15    *neither produce the article, unit, or part within the United States*  
 16    *nor obtain the article, unit, or part of the merchandise from a*  
 17    *domestic source.*  
 18    (B) *The article, unit, or part of the merchandise obtained from*  
 19    *outside the United States constitutes only a negligible part of the*  
 20    *final manufactured product.*  
 21    (2) *The determination that the article, unit, or part of the*  
 22    *merchandise cannot be made, manufactured, produced, or obtained*  
 23    *within the United States from a domestic source shall not be based*  
 24    *on the cost of the article, unit, or part.*

1 SECTION 1. ~~Section 17533.7 of the Business and Professions~~  
2 ~~Code is amended to read:~~

3 ~~17533.7. (a) It is unlawful for any person, firm, corporation,~~  
4 ~~or association to sell or offer for sale in this state any merchandise~~  
5 ~~on which merchandise or on its container there appears the words~~  
6 ~~“Made in U.S.A.,” “Made in America,” “U.S.A.,” or similar words~~  
7 ~~when the merchandise has been entirely or substantially made,~~  
8 ~~manufactured, or produced outside of the United States.~~

9 ~~(b) For purposes of this section, any merchandise has been~~  
10 ~~substantially made, manufactured, or produced within the United~~  
11 ~~States if it meets all of the following requirements:~~

12 ~~(1) United States manufacturing costs constitute 90 percent of~~  
13 ~~the total manufacturing costs for the merchandise.~~

14 ~~(2) No more than 10 percent of the total manufacturing costs~~  
15 ~~for the merchandise were either incurred outside of the United~~  
16 ~~States as a result of the unavailability of raw materials in the United~~  
17 ~~States, or incurred as the costs of a component, part, article, or unit~~  
18 ~~of the merchandise imported into the United States as a result of~~  
19 ~~the unavailability of the same component, part, article, or unit of~~  
20 ~~the merchandise from a domestic manufacturer.~~

21 ~~(3) The merchandise was last substantially transformed in the~~  
22 ~~United States.~~

23 ~~(e) Certification by an independent third-party verification~~  
24 ~~organization that the merchandise meets all of the requirements~~  
25 ~~of subdivision (b) shall create a rebuttable presumption, affecting~~  
26 ~~the burden of producing evidence, that the merchandise has been~~  
27 ~~substantially made, manufactured, or produced within the United~~  
28 ~~States.~~