
By: **Delegates Taylor, Murray, Benson, Carter, Dumais, Feldman, Haynes,
Heller, Hixson, Kirk, Lee, Madaleno, Marriott, Oaks, Ramirez, and
Vaughn**

Introduced and read first time: February 10, 2006
Assigned to: Economic Matters

Committee Report: Favorable with amendments
House action: Adopted
Read second time: March 25, 2006

CHAPTER _____

1 AN ACT concerning

2 **Business Regulation - ~~Reporting of Contracts~~ Representation of Business**
3 **Affiliations with Small Businesses and Certified Minority Business**
4 **Enterprises**

5 FOR the purpose of prohibiting a certain employer from falsely representing a
6 business affiliation with a small business or a certified minority business
7 enterprise in a certain publication ~~unless the employer files a certain report~~
8 ~~with the Department of Labor, Licensing, and Regulation; requiring the~~
9 ~~Department to make a comprehensive list of certain reports available to the~~
10 ~~public at no cost; authorizing certain persons to file a complaint with the~~
11 ~~Governor's Office of Minority Affairs; authorizing the Office to investigate~~
12 ~~certain complaints; requiring the Office to report certain findings to certain~~
13 ~~agencies; authorizing the Office to use the Office of Administrative Hearings for~~
14 ~~certain purposes; establishing certain penalties; defining certain terms; and~~
15 generally relating to contracts with small businesses and certified minority
16 business enterprises.

17 BY adding to
18 Article - Business Regulation
19 Section 19-401 through 19-404, inclusive, to be under the new subtitle "Subtitle
20 4. ~~Reporting of Procurement Contracts~~ Representation of Business
21 Affiliations with Small Businesses and Certified Minority Business
22 Enterprises"
23 Annotated Code of Maryland
24 (2004 Replacement Volume and 2005 Supplement)

1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
2 MARYLAND, That the Laws of Maryland read as follows:

3 **Article - Business Regulation**

4 SUBTITLE 4. ~~REPORTING OF PROCUREMENT CONTRACTS~~ REPRESENTATION OF
5 BUSINESS AFFILIATIONS WITH SMALL BUSINESSES AND CERTIFIED MINORITY
6 BUSINESS ENTERPRISES.

7 19-401.

8 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
9 INDICATED.

10 (B) "CERTIFIED MINORITY BUSINESS ENTERPRISE" HAS THE MEANING
11 STATED IN § 14-301(D) OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

12 (C) (1) "EMPLOYER" MEANS A PERSON ENGAGED IN A BUSINESS, INDUSTRY,
13 PROFESSION, TRADE, ASSOCIATION, ORGANIZATION, OR OTHER ENTERPRISE IN THE
14 STATE THAT:

15 (I) EMPLOYS 500 OR MORE EMPLOYEES; OR

16 (II) FACILITATES INTERACTION BETWEEN A MINORITY BUSINESS
17 ENTERPRISE OR A SMALL BUSINESS AND AN EMPLOYER DESCRIBED IN ITEM (I) OF
18 THIS PARAGRAPH.

19 (2) "EMPLOYER" DOES NOT INCLUDE A UNIT OF STATE OR LOCAL
20 GOVERNMENT.

21 (D) "SMALL BUSINESS" MEANS A BUSINESS, OTHER THAN A BROKER, THAT
22 MEETS THE FOLLOWING CRITERIA:

23 (1) THE BUSINESS IS INDEPENDENTLY OWNED AND OPERATED;

24 (2) THE BUSINESS IS NOT A SUBSIDIARY OF ANOTHER BUSINESS;

25 (3) THE BUSINESS IS NOT DOMINANT IN ITS FIELD OF OPERATION;

26 (4) THE WHOLESALE OPERATIONS OF THE BUSINESS DID NOT EMPLOY
27 MORE THAN 50 PERSONS, AND THE GROSS SALES OF THE BUSINESS DID NOT EXCEED
28 AN AVERAGE OF \$2,000,000 IN ITS MOST RECENTLY COMPLETED 3 FISCAL YEARS;

29 (5) THE RETAIL OPERATIONS OF THE BUSINESS DID NOT EMPLOY MORE
30 THAN 25 PERSONS, AND THE GROSS SALES OF THE BUSINESS DID NOT EXCEED AN
31 AVERAGE OF \$2,000,000 IN ITS MOST RECENTLY COMPLETED 3 FISCAL YEARS;

32 (6) THE MANUFACTURING OPERATIONS OF THE BUSINESS DID NOT
33 EMPLOY MORE THAN 100 PERSONS, AND THE GROSS SALES OF THE BUSINESS DID

1 NOT EXCEED AN AVERAGE OF \$2,000,000 IN ITS MOST RECENTLY COMPLETED 3
2 FISCAL YEARS;

3 (7) THE SERVICE OPERATIONS OF THE BUSINESS DID NOT EMPLOY
4 MORE THAN 100 PERSONS, AND THE GROSS SALES OF THE BUSINESS DID NOT
5 EXCEED AN AVERAGE OF \$2,000,000 IN ITS MOST RECENTLY COMPLETED 3 FISCAL
6 YEARS; AND

7 (8) THE CONSTRUCTION OPERATIONS OF THE BUSINESS DID NOT
8 EMPLOY MORE THAN 50 PERSONS, AND THE GROSS SALES OF THE BUSINESS DID NOT
9 EXCEED AN AVERAGE OF \$7,000,000 IN ITS MOST RECENTLY COMPLETED 3 FISCAL
10 YEARS.

11 19-402.

12 (A) THIS SECTION DOES NOT APPLY TO AN EMPLOYER THAT IS NOT AWARE OF
13 THE STATUS OF AN ENTITY AS EITHER A SMALL BUSINESS OR A CERTIFIED
14 MINORITY BUSINESS ENTERPRISE.

15 (B) AN EMPLOYER MAY NOT FALSELY REPRESENT A BUSINESS AFFILIATION
16 WITH A SMALL BUSINESS OR A CERTIFIED MINORITY BUSINESS ENTERPRISE IN A
17 WRITTEN MARKETING OR ADVERTISING PUBLICATION TARGETING OTHER BUSINESS
18 ENTITIES ~~UNLESS THE EMPLOYER FILES WITH THE DEPARTMENT A CURRENT AND~~
19 ~~ACCURATE REPORT DESCRIBED UNDER § 19 403 OF THIS SUBTITLE.~~

20 19-403.

21 (A) ~~A REPORT FILED UNDER § 19 402 OF THIS SUBTITLE SHALL DISCLOSE:~~

22 (1) ~~(I) THE TOTAL NUMBER AND VALUE OF CONTRACTS BETWEEN~~
23 ~~THE EMPLOYER AND SMALL BUSINESSES IF A SMALL BUSINESS IS FEATURED IN THE~~
24 ~~PUBLICATION; OR~~

25 ~~(II) THE TOTAL NUMBER AND VALUE OF CONTRACTS BETWEEN~~
26 ~~THE EMPLOYER AND CERTIFIED MINORITY BUSINESS ENTERPRISES IF A CERTIFIED~~
27 ~~MINORITY BUSINESS ENTERPRISE IS FEATURED IN THE PUBLICATION; AND~~

28 ~~(2) THE PERCENTAGE THAT THE PROCUREMENT CONTRACTS UNDER~~
29 ~~PARAGRAPH (1) OF THIS SUBSECTION REPRESENT OF THE TOTAL NUMBER AND~~
30 ~~VALUE OF PROCUREMENT CONTRACTS.~~

31 ~~(B) THE DEPARTMENT SHALL MAKE A COMPREHENSIVE LIST OF THE~~
32 ~~REPORTS FILED UNDER THIS SUBTITLE AVAILABLE TO THE PUBLIC AT NO COST.~~

33 (A) A SMALL BUSINESS, CERTIFIED MINORITY BUSINESS ENTERPRISE, OR
34 OTHER PERSON AGGRIEVED BY A VIOLATION OF THIS SUBTITLE MAY FILE A
35 COMPLAINT WITH THE GOVERNOR'S OFFICE OF MINORITY AFFAIRS.

36 (B) THE GOVERNOR'S OFFICE OF MINORITY AFFAIRS MAY INVESTIGATE THE
37 COMPLAINT AND, IF THE OFFICE FINDS THAT A VIOLATION HAS OCCURRED, SHALL

1 NOTIFY THE BOARD OF PUBLIC WORKS, THE DEPARTMENT OF BUDGET AND
2 MANAGEMENT, THE DEPARTMENT OF TRANSPORTATION, AND OTHER RELEVANT
3 PROCURING AGENCIES OF THE VIOLATION.

4 (C) THE GOVERNOR'S OFFICE OF MINORITY AFFAIRS MAY USE THE OFFICE OF
5 ADMINISTRATIVE HEARINGS TO CONDUCT PROCEEDINGS NECESSARY TO
6 INVESTIGATE AND PRESENT RECOMMENDED FINDINGS ON THE COMPLAINT TO THE
7 GOVERNOR'S OFFICE OF MINORITY AFFAIRS.

8 19-404.

9 A PERSON THAT KNOWINGLY AND WILLFULLY VIOLATES THIS SUBTITLE IS
10 DEBARRED FROM ENTERING INTO A CONTRACT WITH THE STATE AND RECEIVING A
11 STATE-AWARDED GRANT FOR A PERIOD OF 5 YEARS.

12 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
13 October 1, 2006.