

SENATE BILL 648

P2
SB 380/07 – EHE

8lr2329

By: **Senators Peters, Astle, Dyson, ~~and Munson~~ Munson, Garagiola, Colburn, Conway, Lenett, and Rosapepe**

Introduced and read first time: February 1, 2008

Assigned to: Education, Health, and Environmental Affairs

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 21, 2008

CHAPTER _____

1 AN ACT concerning

2 **Procurement – Service Disabled Veteran Business Enterprise Participation**

3 FOR the purpose of establishing a certain participation goal for certain certified
4 service disabled veteran business enterprises for certain procurement contracts;
5 requiring a certain awarding unit to consider certain efforts by and award
6 certain contracts to certain bidders or offerors that meet or make a good-faith
7 effort to meet certain participation goals; establishing certain criteria by which
8 a contractor is considered to have made a good-faith effort to meet certain
9 participation goals; requiring the Maryland Department of Veterans Affairs and
10 the ~~Governor's Office of Business Advocacy and Small Business Assistance~~
11 Department of Business and Economic Development to jointly adopt certain
12 regulations; requiring the Department of Veterans Affairs and the ~~Governor's~~
13 ~~Office of Business Advocacy and Small Business Assistance~~ Department of
14 Business and Economic Development to designate an advocate to coordinate
15 and oversee certain activities relating to service disabled veteran business
16 enterprises; requiring an awarding unit to adopt certain regulations to meet the
17 requirements of this Act; requiring an awarding unit to designate a service
18 disabled veteran business enterprise advocate to assist the awarding unit in
19 meeting goals related to service disabled veteran business enterprise
20 participation; requiring certain awarding units to make certain reports on or
21 before a certain date; requiring the Department of Veterans Affairs and the
22 ~~Governor's Office of Business Advocacy and Small Business Assistance~~
23 Department of Business and Economic Development to make certain reports on
24 or before ~~a certain date~~ certain date dates; requiring the Department of Business and
25 Economic Development to adopt certain regulations regarding the

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike-out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 decertification of certain entities and to oversee and coordinate certain outreach
 2 programs and activities; requiring the Department of Business and Economic
 3 Development to use certain resources to implement a certain program;
 4 establishing certain prohibited acts and certain penalties for certain violations;
 5 defining certain terms; and generally relating to procurement participation by
 6 service disabled veteran business enterprises.

7 BY adding to

8 Article – State Finance and Procurement

9 Section 14–601 through 14–607 to be under the new subtitle “Subtitle 6. Service
 10 Disabled Veteran Business Enterprise Participation”

11 Annotated Code of Maryland

12 (2006 Replacement Volume and 2007 Supplement)

13 BY repealing and reenacting, with amendments,

14 Article – State Finance and Procurement

15 Section 16–203(a)

16 Annotated Code of Maryland

17 (2006 Replacement Volume and 2007 Supplement)

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

20 **Article – State Finance and Procurement**

21 **SUBTITLE 6. SERVICE DISABLED VETERAN BUSINESS ENTERPRISE**
 22 **PARTICIPATION.**

23 **14–601.**

24 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
 25 INDICATED.

26 (B) “AWARDING UNIT” MEANS A UNIT OF STATE GOVERNMENT OR AN
 27 OFFICIAL OF THE STATE THAT ENTERS INTO CONTRACTS ON BEHALF OF THE
 28 STATE.

29 (C) “CERTIFICATION” MEANS THE DETERMINATION THAT A LEGAL
 30 ENTITY IS A SERVICE DISABLED VETERAN BUSINESS ENTERPRISE FOR THE
 31 PURPOSES OF THIS SUBTITLE.

32 (D) “CERTIFIED SERVICE DISABLED VETERAN BUSINESS ENTERPRISE”
 33 MEANS A ~~SERVICE DISABLED VETERAN OWNED~~ BUSINESS THAT ~~HOLDS A~~
 34 ~~CERTIFICATION FROM THE UNITED STATES DEPARTMENT OF VETERANS~~
 35 ~~AFFAIRS~~ IS CERTIFIED BY THE UNITED STATES DEPARTMENT OF VETERANS
 36 AFFAIRS AS A SERVICE DISABLED VETERAN-OWNED BUSINESS.

1 (E) "SERVICE DISABLED VETERAN" MEANS AN INDIVIDUAL WHO:

2 ~~(1) HAS SERVED IN ONE OR MORE OF THE UNIFORMED SERVICES~~
3 ~~OF THE UNITED STATES; AND~~

4 ~~(2) HAS BEEN CERTIFIED BY THE UNIFORMED SERVICE OR BY~~
5 ~~THE UNITED STATES DEPARTMENT OF VETERANS AFFAIRS AS HAVING A~~
6 ~~SERVICE CONNECTED DISABILITY, REGARDLESS OF THE DISABILITY RATING.~~

7 (1) IS A VETERAN, AS DEFINED UNDER 38 U.S.C. § 101(2); AND

8 (2) HAS A DISABILITY THAT IS SERVICE-CONNECTED, AS DEFINED
9 UNDER 38 U.S.C. § 101(16).

10 (F) (1) "SERVICE DISABLED VETERAN BUSINESS ENTERPRISE"
11 ~~MEANS A LEGAL ENTITY; HAS THE MEANING STATED IN EXECUTIVE ORDER NO.~~
12 13360 ISSUED ON OCTOBER 21, 2004 BY THE PRESIDENT OF THE UNITED
13 STATES.

14 ~~(I) THAT IS ORGANIZED TO ENGAGE IN COMMERCIAL~~
15 ~~TRANSACTIONS INCLUDING THE LEASE OR RENTAL OF EQUIPMENT;~~

16 ~~(II) THAT IS MAJORITY OWNED AND CONTROLLED BY ONE~~
17 ~~OR MORE INDIVIDUALS WHO ARE SERVICE DISABLED VETERANS AND~~
18 ~~MARYLAND RESIDENTS;~~

19 ~~(III) THAT IS MANAGED BY ONE OR MORE OF THE SERVICE~~
20 ~~DISABLED VETERANS WHO OWN IT;~~

21 ~~(IV) THAT HAS ITS HOME OFFICE OR PRIMARY PLACE OF~~
22 ~~BUSINESS IN THE STATE;~~

23 ~~(V) FOR WHICH ONE OR MORE OF THE SERVICE DISABLED~~
24 ~~VETERANS WHO OWN IT CONTROL THE DAILY BUSINESS OPERATIONS; AND~~

25 ~~(VI) FOR WHICH A SERVICE DISABLED VETERAN ACTUALLY~~
26 ~~PERFORMS, MANAGES, OR SUPERVISES THE WORK PERFORMED UNDER A~~
27 ~~CONTRACT.~~

28 (2) ~~"SERVICE DISABLED VETERAN BUSINESS ENTERPRISE"~~

29 (2) TO THE EXTENT NOT INCONSISTENT WITH FEDERAL LAW,
30 "SERVICE DISABLED VETERAN BUSINESS ENTERPRISE" INCLUDES:

1 (I) ~~A SOLE PROPRIETORSHIP THAT IS MAJORITY OWNED~~
2 ~~OWNED BY ONE OR MORE SERVICE DISABLED VETERANS OR A CORPORATION IN~~
3 ~~WHICH THE MAJORITY OF THE STOCK IS OWNED BY ONE OR MORE DISABLED~~
4 ~~VETERANS WHO ARE MARYLAND RESIDENTS;~~

5 (II) A SUBSIDIARY THAT IS WHOLLY OWNED BY A PARENT
6 CORPORATION IN WHICH THE MAJORITY OF ~~THE VOTING STOCK~~ EACH CLASS OF
7 ISSUED AND OUTSTANDING STOCK OF THE PARENT COMPANY IS OWNED BY ONE
8 OR MORE SERVICE DISABLED VETERANS WHO ARE MARYLAND RESIDENTS;

9 (III) A JOINT VENTURE IN WHICH THE MAJORITY OF THE
10 JOINT VENTURE'S MANAGEMENT, CONTROL, AND ~~EARNINGS PROFITS~~ ARE ~~HELD~~
11 OWNED BY ONE OR MORE SERVICE DISABLED VETERANS; AND

12 (IV) A LIMITED LIABILITY COMPANY ~~THAT IS WHOLLY IN~~
13 WHICH MAJORITY INTERESTS ARE OWNED BY ONE OR MORE SERVICE DISABLED
14 VETERANS WHO ARE MARYLAND RESIDENTS; AND

15 (V) A CORPORATION IN WHICH THE MAJORITY OF EACH
16 CLASS OF ISSUED AND OUTSTANDING STOCK IS OWNED BY ONE OR MORE
17 SERVICE DISABLED VETERANS WHO ARE MARYLAND RESIDENTS.

18 **14-602.**

19 (A) NOTWITHSTANDING ANY OTHER PROVISION OF LAW CREATING
20 SOME OTHER PREFERENCE OR PROGRAM, AN AWARDING UNIT SHALL
21 ESTABLISH A PROCUREMENT PARTICIPATION GOAL OF 3% FOR CERTIFIED
22 SERVICE DISABLED VETERAN BUSINESS ENTERPRISES.

23 (B) THE PROCUREMENT PARTICIPATION GOAL OF 3% PRESCRIBED
24 UNDER SUBSECTION (A) OF THIS SECTION SHALL APPLY TO THE TOTAL
25 FEDERAL FEDERAL AGENCY DOLLARS ANNUALLY RECEIVED BY AN AWARDING
26 UNIT.

27 (C) ON OR BEFORE SEPTEMBER 30, 2013, THE MARYLAND
28 DEPARTMENT OF VETERANS AFFAIRS SHALL:

29 (1) CONDUCT A STUDY OF THE IMPLEMENTATION OF THIS
30 SUBTITLE OVER THE PERIOD COVERING FISCAL YEAR 2009 THROUGH FISCAL
31 YEAR 2013; AND

32 (2) SUBMIT A REPORT OF ITS FINDINGS TO THE GOVERNOR, THE
33 DEPARTMENT OF BUSINESS AND ECONOMIC DEVELOPMENT, AND, SUBJECT TO
34 § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY.

1 **14-603.**

2 (A) TO ACHIEVE THE PROCUREMENT GOALS SPECIFIED IN § 14-602 OF
3 THIS SUBTITLE, AN AWARDING UNIT SHALL:

4 (1) CONSIDER THE EFFORTS OF A RESPONSIBLE BIDDER OR
5 RESPONSIBLE OFFEROR TO MEET SERVICE DISABLED VETERAN BUSINESS
6 ENTERPRISE GOALS; ~~AND~~

7 (2) AWARD THE CONTRACT TO THE LOWEST RESPONSIBLE
8 BIDDER OR RESPONSIBLE OFFEROR THAT MEETS OR MAKES A GOOD-FAITH
9 EFFORT TO MEET THE GOALS; AND

10 (3) AWARD THE CONTRACT TO A PRIME CONTRACTOR THAT IS
11 QUALIFIED UNDER § 14-601 OF THIS SUBTITLE AND THAT FULFILLS THE
12 PROCUREMENT PERCENTAGE REQUIREMENTS UNDER § 14-602 OF THIS
13 SUBTITLE.

14 (B) A BIDDER OR OFFEROR SHALL BE CONSIDERED TO HAVE MADE A
15 GOOD-FAITH EFFORT TO MEET THE GOALS SPECIFIED IN § 14-602 OF THIS
16 SUBTITLE IF THE BIDDER OR OFFEROR SUBMITS DOCUMENTARY EVIDENCE
17 THAT:

18 (1) THE BIDDER OR OFFEROR CONTACTED THE AWARDING UNIT
19 TO IDENTIFY CERTIFIED SERVICE DISABLED VETERAN BUSINESS ENTERPRISES;

20 (2) THE BIDDER OR OFFEROR CONTACTED THE UNITED STATES
21 DEPARTMENT OF VETERANS AFFAIRS OR HAS SEARCHED THE UNITED STATES
22 DEPARTMENT OF VETERANS AFFAIRS DATABASE AT [WWW.VIP.VETBIZ.GOV](http://www.vip.vetbiz.gov) TO
23 IDENTIFY CERTIFIED SERVICE DISABLED VETERAN BUSINESS ENTERPRISES;

24 (3) UNLESS TIME LIMITS IMPOSED BY THE AWARDING UNIT DID
25 NOT MAKE IT FEASIBLE, THE BIDDER OR OFFEROR PUBLISHED AN
26 ADVERTISEMENT IN ~~ONE OR MORE PUBLICATIONS FOCUSING ON SERVICE~~
27 ~~DISABLED VETERANS~~ FEDERAL BUSINESS OPPORTUNITIES (FBO);

28 (4) THE BIDDER OR OFFEROR PROVIDED NOTICE OF AN
29 INVITATION FOR BIDS OR A REQUEST FOR PROPOSALS TO POTENTIAL SERVICE
30 DISABLED VETERAN BUSINESS ENTERPRISE CONTRACTORS; AND

31 (5) THE BIDDER OR OFFEROR CONSIDERED AVAILABLE
32 CERTIFIED SERVICE DISABLED VETERAN BUSINESS ENTERPRISES FOR
33 CONTRACTING.

34 **14-604.**

1 (A) ~~THE GOVERNOR'S OFFICE OF BUSINESS ADVOCACY AND SMALL~~
2 ~~BUSINESS ASSISTANCE~~ DEPARTMENT OF BUSINESS AND ECONOMIC
3 DEVELOPMENT SHALL ADOPT REGULATIONS TO:

4 (1) ~~CERTIFY AND~~ DECERTIFY SERVICE DISABLED VETERAN
5 ~~BUSINESS ENTERPRISES;~~ ENTERPRISES THAT HAVE BEEN DECERTIFIED BY THE
6 UNITED STATES DEPARTMENT OF VETERANS AFFAIRS OR AS A RESULT OF
7 VIOLATIONS OF ANY PROVISIONS OF THIS SUBTITLE;

8 (2) ESTABLISH A SYSTEM FOR TRACKING SERVICE DISABLED
9 VETERAN BUSINESS ENTERPRISES; AND

10 (3) ESTABLISH EDUCATIONAL PROGRAMS TO ASSIST SERVICE
11 DISABLED VETERAN BUSINESS ENTERPRISES IN BUSINESS DEVELOPMENT AND
12 PARTICIPATION IN STATE PROCUREMENT ACTIVITIES.

13 (B) ~~THE GOVERNOR'S OFFICE OF BUSINESS ADVOCACY AND SMALL~~
14 ~~BUSINESS ASSISTANCE~~ DEPARTMENT OF BUSINESS AND ECONOMIC
15 DEVELOPMENT SHALL DESIGNATE AN ADVOCATE TO:

16 (1) COORDINATE WITH THE MARYLAND DEPARTMENT OF
17 VETERANS AFFAIRS TO CONDUCT OUTREACH AND EDUCATION FOR EXISTING
18 AND POTENTIAL DISABLED VETERAN BUSINESS ENTERPRISES;

19 (2) OVERSEE, PROMOTE, AND COORDINATE EFFORTS TO
20 FACILITATE THE IMPLEMENTATION OF THIS SUBTITLE;

21 (3) DISSEMINATE INFORMATION RELATING TO THIS SUBTITLE;

22 (4) COORDINATE REPORTS REQUIRED UNDER THIS SUBTITLE;

23 (5) COORDINATE WITH AWARDING UNITS AND EXISTING AND
24 POTENTIAL SERVICE DISABLED VETERAN BUSINESS ENTERPRISES TO ACHIEVE
25 THE GOALS OF THIS SUBTITLE; AND

26 (6) COORDINATE THE IMPLEMENTATION OF EDUCATIONAL
27 PROGRAMS ESTABLISHED UNDER THIS SUBTITLE.

28 **14-605.**

29 (A) AN AWARDING UNIT SHALL ADOPT REGULATIONS TO:

30 (1) CARRY OUT THE PROVISIONS OF THIS SUBTITLE; AND

1 (2) MONITOR ADHERENCE TO THE GOALS SPECIFIED IN THIS
2 SUBTITLE.

3 (B) AN AWARDING UNIT SHALL DESIGNATE A SERVICE DISABLED
4 VETERAN BUSINESS ENTERPRISE ADVOCATE TO:

5 (1) ASSIST CERTIFIED SERVICE DISABLED VETERAN BUSINESS
6 ENTERPRISES IN PARTICIPATING IN THE AWARDING UNIT'S PROCUREMENT
7 ACTIVITIES;

8 (2) ASSIST PROCUREMENT OFFICERS IN SEEKING CERTIFIED
9 SERVICE DISABLED VETERAN BUSINESS ENTERPRISES TO PARTICIPATE IN THE
10 AWARDING UNIT'S PROCUREMENT ACTIVITIES;

11 (3) SERVE AS AN ADVOCATE FOR CERTIFIED SERVICE DISABLED
12 VETERAN BUSINESS ENTERPRISES THAT PARTICIPATE IN THE AWARDING UNIT'S
13 PROCUREMENT ACTIVITIES;

14 (4) REPORT TO THE ~~OFFICE OF SMALL BUSINESS~~
15 ~~CERTIFICATION AND RESOURCES~~ DEPARTMENT OF BUSINESS AND ECONOMIC
16 DEVELOPMENT REGARDING A VIOLATION OF THIS SUBTITLE; AND

17 (5) COORDINATE WITH THE SERVICE DISABLED VETERAN
18 BUSINESS ENTERPRISE ADVOCATE IN THE ~~GOVERNOR'S OFFICE OF BUSINESS~~
19 ~~ADVOCACY AND SMALL BUSINESS ASSISTANCE~~ DEPARTMENT OF BUSINESS
20 AND ECONOMIC DEVELOPMENT TO MEET THE GOALS OF THIS SUBTITLE.

21 **14-606.**

22 (A) WITHIN 90 DAYS AFTER THE END OF ~~THE~~ EACH FISCAL YEAR, AN
23 AWARDING UNIT SHALL REPORT, FOR THE PRECEDING FISCAL YEAR, THE
24 FOLLOWING INFORMATION TO THE DEPARTMENT OF VETERANS AFFAIRS AND
25 THE ~~GOVERNOR'S OFFICE OF BUSINESS ADVOCACY AND SMALL BUSINESS~~
26 ~~ASSISTANCE~~ DEPARTMENT OF BUSINESS AND ECONOMIC DEVELOPMENT:

27 (1) THE TOTAL NUMBER AND VALUE OF PROCUREMENT
28 CONTRACTS BETWEEN THE AWARDING UNIT AND CERTIFIED SERVICE DISABLED
29 VETERAN BUSINESS ENTERPRISES;

30 (2) THE PERCENTAGE THAT THE CONTRACTS UNDER ITEM (1) OF
31 THIS SUBSECTION REPRESENT OF THE TOTAL NUMBER AND VALUE OF THE
32 AWARDING UNIT'S PROCUREMENT CONTRACTS FUNDED BY FEDERAL DOLLARS;

33 (3) IF THE AWARDING UNIT DID NOT MEET THE GOALS
34 ESTABLISHED UNDER THIS SUBTITLE FOR THE PRECEDING FISCAL YEAR:

1 (I) THE REASONS THE AWARDING UNIT DID NOT MEET THE
2 GOALS; AND

3 (II) STEPS THE AWARDING UNIT WILL TAKE DURING THE
4 NEXT FISCAL YEAR IN AN EFFORT TO MEET THE GOALS; AND

5 (4) OTHER INFORMATION AS REQUIRED BY THE DEPARTMENT OF
6 VETERANS AFFAIRS OR THE GOVERNOR'S OFFICE OF BUSINESS ADVOCACY
7 AND SMALL BUSINESS ASSISTANCE.

8 (B) ON OR BEFORE ~~DECEMBER 31 OF EACH YEAR~~ 90 DAYS AFTER THE
9 END OF EACH FISCAL YEAR, THE DEPARTMENT OF VETERANS AFFAIRS AND THE
10 ~~GOVERNOR'S OFFICE OF BUSINESS ADVOCACY AND SMALL BUSINESS~~
11 ~~ASSISTANCE~~ DEPARTMENT OF BUSINESS AND ECONOMIC DEVELOPMENT
12 JOINTLY SHALL SUBMIT TO THE BOARD OF PUBLIC WORKS AND, SUBJECT TO §
13 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE LEGISLATIVE POLICY
14 COMMITTEE A REPORT SUMMARIZING THE INFORMATION RECEIVED UNDER
15 SUBSECTION (A) OF THIS SECTION FOR THE PRECEDING FISCAL YEAR.

16 **14-607.**

17 (A) A PERSON MAY NOT:

18 (1) KNOWINGLY AND WITH INTENT TO DEFRAUD, FRAUDULENTLY
19 OBTAIN, RETAIN, ATTEMPT TO OBTAIN OR RETAIN, OR AID ANOTHER IN
20 FRAUDULENTLY OBTAINING OR RETAINING OR ATTEMPTING TO OBTAIN OR
21 RETAIN, CERTIFICATION AS A SERVICE DISABLED VETERAN BUSINESS
22 ENTERPRISE FOR THE PURPOSE OF PARTICIPATING IN STATE PROCUREMENT
23 ACTIVITIES UNDER THIS SUBTITLE;

24 (2) WILLFULLY AND KNOWINGLY MAKE A FALSE STATEMENT
25 WITH THE INTENT TO DEFRAUD, WHETHER BY AFFIDAVIT, REPORT, OR OTHER
26 REPRESENTATION, TO A STATE OFFICIAL OR EMPLOYEE FOR THE PURPOSE OF
27 INFLUENCING THE CERTIFICATION OR DENIAL OF CERTIFICATION OF ANY
28 ENTITY AS A SERVICE DISABLED VETERAN BUSINESS ENTERPRISE;

29 (3) WILLFULLY AND KNOWINGLY OBSTRUCT, IMPEDE, OR
30 ATTEMPT TO OBSTRUCT OR IMPEDE, A STATE OFFICIAL OR EMPLOYEE WHO IS
31 INVESTIGATING THE QUALIFICATIONS OF A BUSINESS ENTITY THAT HAS
32 REQUESTED CERTIFICATION AS A SERVICE DISABLED VETERAN BUSINESS
33 ENTERPRISE;

34 (4) KNOWINGLY AND WITH INTENT TO DEFRAUD, FRAUDULENTLY
35 OBTAIN, ATTEMPT TO OBTAIN, OR AID ANOTHER PERSON IN FRAUDULENTLY

1 OBTAINING OR ATTEMPTING TO OBTAIN, PUBLIC MONEYS, PROCUREMENT
2 CONTRACTS, OR FUNDS EXPENDED UNDER A PROCUREMENT CONTRACT TO
3 WHICH THE PERSON IS NOT ENTITLED UNDER THIS ARTICLE;

4 (5) KNOWINGLY AND WITH INTENT TO DEFRAUD, FRAUDULENTLY
5 REPRESENT PARTICIPATION OF A SERVICE DISABLED VETERAN BUSINESS
6 ENTERPRISE IN ORDER TO OBTAIN OR RETAIN A BID PREFERENCE OR A
7 PROCUREMENT CONTRACT;

8 (6) WILLFULLY AND KNOWINGLY MAKE OR SUBSCRIBE TO ANY
9 STATEMENT, DECLARATION, OR OTHER DOCUMENT THAT IS FRAUDULENT OR
10 FALSE AS TO ANY MATERIAL MATTER, WHETHER OR NOT THAT FALSITY OR
11 FRAUD IS COMMITTED WITH THE KNOWLEDGE OR CONSENT OF THE PERSON
12 AUTHORIZED OR REQUIRED TO PRESENT THE DECLARATION, STATEMENT, OR
13 DOCUMENT;

14 (7) WILLFULLY AND KNOWINGLY AID, ASSIST IN, PROCURE,
15 COUNSEL, OR ADVISE, THE PREPARATION OR PRESENTATION OF A
16 DECLARATION, STATEMENT, OR OTHER DOCUMENT THAT IS FRAUDULENT OR
17 FALSE AS TO ANY MATERIAL MATTER, REGARDLESS OF WHETHER THAT FALSITY
18 OR FRAUD IS COMMITTED WITH THE KNOWLEDGE OR CONSENT OF THE PERSON
19 AUTHORIZED OR REQUIRED TO PRESENT THE DECLARATION, STATEMENT, OR
20 DOCUMENT;

21 (8) WILLFULLY AND KNOWINGLY FAIL TO FILE ANY DECLARATION
22 OR NOTICE WITH THE AWARDING UNIT THAT IS REQUIRED BY THIS SUBTITLE;
23 OR

24 (9) ESTABLISH, KNOWINGLY AID IN THE ESTABLISHMENT OF, OR
25 EXERCISE CONTROL OVER, A BUSINESS FOUND TO HAVE VIOLATED A PROVISION
26 OF PARAGRAPHS (1) THROUGH (8) OF THIS SUBSECTION.

27 (B) (1) A PERSON WHO VIOLATES ANY OF THE PROVISIONS OF
28 SUBSECTION (A) OF THIS SECTION SHALL BE GUILTY OF A MISDEMEANOR AND
29 ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$1,000 OR
30 IMPRISONMENT NOT EXCEEDING 6 MONTHS OR BOTH.

31 (2) IN ADDITION TO THE PENALTIES UNDER PARAGRAPH (1) OF
32 THIS SUBSECTION, A PERSON WHO VIOLATES ANY OF THE PROVISIONS OF
33 SUBSECTION (A) OF THIS SECTION SHALL BE:

34 (I) FOR THE FIRST OFFENSE, LIABLE FOR A CIVIL PENALTY
35 OF NOT LESS THAN \$10,000 AND NOT EXCEEDING \$30,000; AND

1 (II) FOR A SUBSEQUENT OFFENSE, A CIVIL PENALTY OF NOT
2 LESS THAN \$30,000 AND NOT EXCEEDING \$50,000.

3 (3) A PERSON WHO VIOLATES ANY OF THE PROVISIONS OF
4 SUBSECTION (A) OF THIS SECTION SHALL PAY ALL COSTS AND ATTORNEY'S FEES
5 INCURRED BY THE PLAINTIFF IN A CIVIL ACTION BROUGHT UNDER THIS
6 SUBTITLE.

7 (C) (1) IN ACCORDANCE WITH TITLE 16 OF THIS ARTICLE, A PERSON
8 WHO IS CONVICTED OF A VIOLATION OF SUBSECTION (A) OF THIS SECTION
9 SHALL:

10 (I) FOR A FIRST OFFENSE, BE DEBARRED FOR A PERIOD OF
11 NOT LESS THAN 3 YEARS AND, IF CERTIFIED AS A SERVICE DISABLED VETERAN
12 BUSINESS ENTERPRISE, BE STRIPPED OF THE CERTIFICATION FOR A PERIOD OF
13 NOT LESS THAN 3 YEARS; AND

14 (II) FOR A SUBSEQUENT OFFENSE, BE DEBARRED FOR A
15 PERIOD OF NOT LESS THAN 5 YEARS AND, IF CERTIFIED AS A SERVICE DISABLED
16 VETERAN BUSINESS ENTERPRISE, BE STRIPPED OF THE CERTIFICATION FOR A
17 PERIOD OF NOT LESS THAN 5 YEARS.

18 (2) A DEBARMENT OR REVOCATION OF CERTIFICATION UNDER
19 THIS SUBSECTION SHALL APPLY TO THE PRINCIPALS OF THE BUSINESS AND ANY
20 SUBSEQUENT BUSINESSES FORMED OR FINANCED BY, OR AFFILIATED WITH,
21 THOSE PRINCIPALS.

22 (3) THE BOARD SHALL PROHIBIT A BUSINESS OR PERSON WHO
23 FAILS TO SATISFY THE PENALTIES, COSTS, AND ATTORNEY'S FEES IMPOSED
24 UNDER SUBSECTION (B) OF THIS SECTION FROM FURTHER CONTRACTING WITH
25 THE STATE UNTIL THE PENALTIES ARE SATISFIED.

26 (D) (1) THE AWARDING UNIT SHALL REPORT ALL ALLEGED
27 VIOLATIONS OF THIS SECTION TO THE BOARD.

28 (2) THE BOARD SHALL SUBSEQUENTLY REPORT ALL ALLEGED
29 VIOLATIONS OF THIS SECTION TO THE OFFICE OF THE ATTORNEY GENERAL,
30 WHICH SHALL DETERMINE WHETHER TO BRING A CIVIL ACTION AGAINST A
31 PERSON OR BUSINESS FOR A VIOLATION OF THIS SECTION.

32 16-203.

33 (a) A person may be debarred from entering into a contract with the State if
34 the person, an officer, partner, controlling stockholder or principal of that person, or
35 any other person substantially involved in that person's contracting activities has:

1 (1) been convicted under the laws of the State, another state or the
2 United States of:

3 (i) a criminal offense incident to obtaining, attempting to
4 obtain, or performing a public or private contract, except as provided in § 16–202; or

5 (ii) fraud, embezzlement, theft, forgery, falsification or
6 destruction of records, or receiving stolen property;

7 (2) been convicted of a criminal violation of an antitrust statute of the
8 State, another state, or the United States;

9 (3) been convicted of a violation of the Racketeer Influenced and
10 Corrupt Organization Act, or the Mail Fraud Act, for acts in connection with the
11 submission of bids or proposals for a public or private contract;

12 (4) been convicted of a violation of § 14–308 of this article;

13 (5) been convicted of conspiracy to commit any act or omission that
14 would constitute grounds for conviction under any of the laws or statutes described in
15 paragraphs (1), (2), (3), or (4) of this subsection;

16 (6) been found civilly liable under an antitrust statute of the State,
17 another state, or the United States for acts or omissions in connection with the
18 submission of bids or proposals for a public or private contract; [or]

19 (7) been found in a final adjudicated decision to have violated the
20 Commercial Nondiscrimination Policy under Title 19 of this article with regard to a
21 public or private contract; **OR**

22 **(8) BEEN CONVICTED OF A VIOLATION OF § 14–607(A) OF THIS**
23 **ARTICLE.**

24 SECTION 2. AND BE IT FURTHER ENACTED, That, the Department of
25 Business and Economic Development shall use existing resources to implement the
26 Service Disabled Veteran Business Enterprise Participation program established
27 under Title 14, Subtitle 6 of the State Finance and Procurement Article, as enacted by
28 Section 1 of this Act.

29 SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take
30 effect October 1, 2008.