

**Chap. 128**

**EXECUTIVE OFFICE OF TRANSPORTATION AND CONSTRUCTION.**

*Department of Highways.*

6010-0001 ..... \$1,395,310

**EXECUTIVE OFFICE OF PUBLIC SAFETY.**

*Department of Correction.*

8900-0001 ..... \$7,514,219

**SECTION 3.** This act shall take effect upon its passage.

Approved June 18, 1996.

**Chapter 129. AN ACT RELATIVE TO REVOLVING CREDIT AGREEMENTS.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Section 114B of chapter 140 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by striking out the fourth paragraph.

**SECTION 2.** Section 20 of chapter 140D of the General Laws, as so appearing, is hereby amended by striking out, in lines 18 to 22, inclusive, the words "; and provided, further, that the finance charge applicable to said balance for any cycle may not be computed on any new sale reflected for the first time in the account during the cycle on any extension of credit made pursuant to chapter two hundred and fifty-five D".

**SECTION 3.** Section 27 of chapter 255D of the General Laws, as so appearing, is hereby amended by striking out, in line 59, the words "excluding purchases".

Approved June 25, 1996.

**Chapter 130. AN ACT REGULATING STATE CONTRACTS WITH COMPANIES DOING BUSINESS WITH OR IN BURMA (MYANMAR).**

*Be it enacted, etc., as follows:*

**SECTION 1.** Chapter 7 of the General Laws is hereby amended by inserting after section 22F, as appearing in the 1994 Official Edition, the following seven sections:-

Section 22G. For the purposes of sections twenty-two H to twenty-two M, inclusive, the following words shall, unless the context indicates otherwise, have the following meanings:-

"Comparable low bid or offer", a responsive and responsible bid or offer which is no more than ten percent greater than the lowest bid or offer submitted for goods or a service.

"Distribution agreement", an agreement to guarantee a contract for the supply of goods or a service.

"Doing business with Burma (Myanmar)",

(a) having a principal place of business, place of incorporation or its corporate headquarters in Burma (Myanmar) or having any operations, leases, franchises, majority-owned subsidiaries, distribution agreements, or any other similar agreements in Burma (Myanmar), or being the majority-owned subsidiary, licensee or franchise of such a person;

(b) providing financial services to the government of Burma (Myanmar), including providing direct loans, underwriting government securities, providing any consulting advice or assistance, providing brokerage services, acting as a trustee or escrow agent, or otherwise acting as an agent pursuant to a contractual agreement;

(c) promoting the importation or sale of gems, timber, oil, gas or other related products, commerce in which is largely controlled by the government of Burma (Myanmar), from Burma (Myanmar);

(d) providing any goods or services to the government of Burma (Myanmar).

"Essential", necessary in order that an agency or authority may perform its mission, there being no substitute, to avoid irreparable harm to agency or authority programs.

"Franchise", authorization by a person to sell his products.

"Government of Burma (Myanmar)", any public or quasi-public entity operating within Burma (Myanmar), including, but not limited to, municipal, provincial, national or other governmental and military bodies, including all departments and agencies of such bodies, public utilities, public facilities, or any national corporation in which Burma (Myanmar) has a financial interest or operational responsibilities.

"License", permission granted by a person to another, or to the government of Burma (Myanmar), to exercise a certain privilege or to carry on a particular business.

"Majority-owned subsidiary", a company that is at least fifty-one percent owned by another company.

"Person", any individual and any partnership, firm, association, corporation, or other entity, or their subsidiaries.

"Secretary", the secretary of administration and finance.

"State agency", all awarding authorities of the commonwealth, including, but not limited to, all executive offices, agencies, departments, commissions, and public institutions of higher education, and any office, department or division of the judiciary.

"State authority", shall include, but not be limited to the: Bay State Skills Corporation, centers of excellence, Community Economic Development Assistance Corporation, Community Development Finance Corporation, Government Land Bank, Massachusetts Bay Transportation Authority, Massachusetts Business Development Corporation, Massachusetts Capital Resource Company, Massachusetts Convention Center Authority, Massachusetts Corporation for Educational Telecommunications, Massachusetts educational loan authority, Massachusetts Health and Educational Facilities Authority, Massachusetts Higher Education Assistance Corporation, Massachusetts Housing Finance Agency, Massachusetts Horse Racing Authority, Massachusetts Industrial Finance Agency, Massachusetts Industrial Service Program, Massachusetts Legal Assistance Corporation,

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Massachusetts Port Authority, Massachusetts Product Development Corporation, Massachusetts Technology Development Corporation, Massachusetts Technology Park Corporation, Massachusetts Turnpike Authority, Massachusetts Water Resources Authority, Nantucket Land Bank, New England Loan Marketing Corporation, pension reserves investment management board, State College Building Authority, Southeastern Massachusetts University Building Authority, Thrift Institutions Fund for Economic Development, University of Lowell Building Authority, University of Massachusetts Building Authority, victim and witness board, and the Woods Hole, Martha's Vineyard, and Nantucket Steamship Authority.

Section 22H. (a) Except as otherwise provided in this section, a state agency, a state authority, the house of representatives or the state senate may not procure goods or services from any person listed on the restricted purchase list maintained by the secretary, or who is determined through affidavit or through other reliable methods to meet the criteria for so being listed.

(b) A state agency, a state authority, the house of representatives or the state senate may procure goods or services from a person who is on or who is so determined to meet the criteria of the restricted purchase list only after certifying in writing to the secretary or, in the case of a state authority, to the chief operating officer that:

(1) the procurement is essential; and

(2) compliance with paragraph (a) would eliminate the only bid or offer, or would result in inadequate competition.

(c) In any solicitation, a state agency, a state authority, the house of representatives or the senate shall provide ample notice of the requirements of this section. Prior to reviewing responses to bid documents for any procurements, or, if there are none, prior to entering into any contractual arrangement, the awarding authority shall obtain from such person seeking a contract a statement, under the pains and penalties of perjury, from an authorized representative of such person seeking a contract, on a form to be provided by the awarding authority, declaring the nature and extent to which said person is engaging in activities which would subject said person to inclusion on the restricted purchase list.

(d) In any procurement that includes bidders or offerors who are on or meet the criteria of the restricted purchase list, the awarding authority may award the contract to a person who is on or who meets the criteria of the restricted purchase list only if there is no comparable low bid or offer by a person who is not on the restricted purchase list.

(e) A person with operations in Burma (Myanmar) for the sole purpose of reporting the news, or solely for the purpose of providing goods or services for the provision of international telecommunications shall not be subject to the provisions of sections twenty-two G to twenty-two M, inclusive.

Section 22I. Notwithstanding the provisions of section twenty-two H, a state agency may purchase medical supplies intended to preserve or prolong life or to cure, prevent, or ameliorate diseases, including hospital, nutritional, diagnostic, pharmaceutical and non-prescription products specifically manufactured to satisfy identified health care needs, or for which there is no medical substitute. The determination of whether no medical substi-

tute exists shall be made by the state agency requiring the supply, pursuant to general standards of good medical and professional practice. The state agency shall give notice to the state purchasing agent in writing, certifying compliance with this exemption, said notice and certification being sufficient to allow the purchase of medical supplies under this exemption.

To the extent that a person doing business in Burma (Myanmar) is providing only medical supplies, as described hereinabove, to persons in Burma (Myanmar), then the supply of goods or equipment to the commonwealth by said person shall also be exempt from the preference requirements of these regulations. This exemption from the preference requirements shall not apply in any case in which the nature of any person's business dealings in Burma (Myanmar) include both medical and non-medical supplies.

Any person from whom a procurement would be restricted under this section shall not supply goods or services to any state agency, state authority, the house of representatives or senate under any other provision of this chapter, or any other general or special law.

Section 22J. (a) The secretary shall establish and maintain a restricted purchase list. The restricted purchase list shall contain the names of all persons currently doing business with Burma (Myanmar).

(b) In establishing the restricted purchase list, the secretary shall consult United Nations reports, resources of the Investor Responsibility Research Center and the Associates to Develop Democratic Burma, and other reliable sources. The secretary shall also place the name of any person who, in the statement described in section twenty-two H, declared that he meets the criteria for being so listed.

(c) The restricted purchase list shall be updated at least once every three months.

(d) The secretary shall provide the lists to all state agencies and state authorities and to the house of representatives and to the senate.

Section 22K. The secretary is hereby authorized and directed to promulgate regulations to assure the timely and effective implementation of sections twenty-two G to twenty-two M, inclusive.

Section 22L. Any contract entered into in violation of sections twenty-two G to twenty-two M, inclusive, shall be void.

Section 22M. Annually on or before January first, the secretary shall file a report with the clerks of the senate and the house of representatives detailing compliance with sections twenty-two G to twenty-two M, inclusive.

**SECTION 2.** Subsection (a) of section 40F½ of said chapter 7, as appearing in the 1994 Official Edition, is hereby amended by adding the following paragraph:-

It shall be the policy of the commonwealth that the commissioner shall not sell, rent, or dispose of any real property including but not limited to granting the right to lay, construct, maintain, or operate pipelines through, over, across, or under land, water, park, reservation or highway of the commonwealth, its agencies or its political subdivisions, to any person doing business in or with Burma (Myanmar). The commissioner may sell, rent, or dispose of said property or grant said rights to said person only after certifying in writing to the speaker of the house of representatives and president of the senate that such action is

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essential to protect the health and safety of the public.

**SECTION 3.** The provisions of this act shall apply to contracts entered into after the effective date of this act. Any existing contract shall remain in full force and effect and not be subject to the provisions of this act until such time as the renewal of the contractual agreement.

Approved June 25, 1996.

**Chapter 131. AN ACT RELATIVE TO A CERTAIN SCHOLARSHIP FUND IN THE TOWN OF ARLINGTON.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Section 1 of chapter 405 of the acts of 1983 is hereby amended by striking out, in lines 8 to 10, inclusive, the words "The Town of Arlington Scholarship Fund; the purpose of said fund being" and inserting in place thereof the following words:- the Arlington Citizens' Scholarship Foundation (ACSF); and establishing a fund.

**SECTION 2.** Section 6 of said chapter 405 is hereby amended by striking out, in line 2, the words "The Town of Arlington Scholarship Fund" and inserting in place thereof the following words:- the Arlington Citizens' Scholarship Foundation (ACSF).

**SECTION 3.** This act shall take effect upon its passage.

Approved June 25, 1996.

**Chapter 132. AN ACT RELATIVE TO THE BOARD OF SELECTMEN OF THE TOWN OF MIDDLEBOROUGH.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Section 3 of chapter 592 of the acts of 1920, as amended by section 1 of chapter 3 of the acts of 1982, is hereby further amended by striking out the third sentence and inserting in place thereof the following sentence:- The selectmen shall also act as surveyors of highways of the town with all the powers and duties conferred or imposed by law upon surveyors of highways.

**SECTION 2.** Said section 3 of said chapter 592 is hereby further amended by adding the following paragraph:-

The board of selectmen are hereby authorized to appoint one or more fish wardens qualified to act as such, who shall be sworn to the faithful discharge of their duty in enforcing the provisions of law regarding fishing in the town.

Approved June 25, 1996.