

FIRST REGULAR SESSION

# HOUSE BILL NO. 1215

103RD GENERAL ASSEMBLY

---

INTRODUCED BY REPRESENTATIVE OEHLERKING.

2581H.011

JOSEPH ENGLER, Chief Clerk

---

## AN ACT

To amend chapter 34, RSMo, by adding thereto one new section relating to the procurement protection act, with penalty provisions.

---

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Chapter 34, RSMo, is amended by adding thereto one new section, to be known as section 34.605, to read as follows:

**34.605. 1. This section shall be known and may be cited as "The Procurement Protection Act".**

**2. As used in this section, the following terms mean:**

**(1) "Company", any sole proprietorship, organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, limited liability company, or other entity or business association, including all wholly owned subsidiaries, majority owned subsidiaries, parent companies, or affiliates of such entities or business associations, that exists for the purpose of making profit;**

**(2) "Domicile", either the country in which a company is registered, where the company's affairs are primarily completed, or where the majority of ownership share is held;**

**(3) "Federally banned corporation", any company or designated equipment currently banned at the federal level including, but not limited to, any of the following authorities:**

**(a) The Federal Communications Commission including, but not limited to, any equipment or service deemed to pose a threat to national security and identified on the Covered List developed under 47 CFR 1.50002 and published by the Public Safety and**

EXPLANATION — Matter enclosed in bold-faced brackets ~~thus~~ in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18 **Homeland Security Bureau of the Federal Communications Commission under the**  
19 **federal Secure and Trust Communications Networks Act of 2019, 47 U.S.C. 1601 et seq.;**

20 **(b) The Department of Commerce including, but not limited to, any entity listed**  
21 **under Subpart No. 4 to Part 744, Title 15, or Subpart No. 7 to Part 744, Title 15;**

22 **(c) Section 889 of the John. S. McCain National Defense Authorization Act, Pub.**  
23 **L. 115-232;**

24 **(d) Section 1260H of the William M (Mac) Thornberry National Defense**  
25 **Authorization Act, Pub. L. 116-283;**

26 **(e) Section 5949 of the James M Inhofe National Defense Authorization Act for**  
27 **Fiscal, Pub. L. 117-263;**

28 **(f) Any entity sanctioned by the Office of Foreign Assets Control of the**  
29 **Department of the Treasury including, but not limited to, placement on any of the**  
30 **following lists:**

31 **a. Specially Designated Nationals and Blocked Persons (SDN);**

32 **b. Non-SDN Menu-Based Sanctions (NS-MBS);**

33 **c. Non-SDN Chinese Military-Industrial Complex Companies (NS-CMIC); or**

34 **d. Sectoral Sanctions Identifications (SSI); or**

35 **(g) Any entity subject to a Federal Acquisition Supply Chain Security Act order**  
36 **issued by the Federal Acquisition Security Council;**

37 **(4) "Foreign adversary", the People's Republic of China, the Russian**  
38 **Federation, the Islamic Republic of Iran, the Democratic People's Republic of Korea,**  
39 **the Republic of Cuba, the Venezuelan regime of Nicolas Maduro, or the Syrian Arab**  
40 **Republic, including any agent of or any other entity under significant control of such**  
41 **foreign adversary, or any other entity deemed by the governor in consultation with the**  
42 **department of public safety;**

43 **(5) "Foreign adversary company", any company other than a United States**  
44 **person or subsidiary as defined in 15 CFR 772.1, that:**

45 **(a) Is domiciled, incorporated, issued, or listed within a foreign adversary;**

46 **(b) Is headquartered within a foreign adversary;**

47 **(c) Has its principal place of business within a foreign adversary;**

48 **(d) Is controlled by the government of a foreign adversary or the military or**  
49 **ruling political party of a foreign adversary; or**

50 **(e) Is majority-owned by an entity controlled by the government of a foreign**  
51 **adversary or the military or ruling political party of a foreign adversary;**

52

53 **If a parent company does not meet the above criteria and does not recognize more than**  
54 **fifty percent of its total annual global revenue from a subsidiary or affiliate that**

55 qualifies as a foreign adversary company, the parent company shall not be considered a  
56 foreign adversary company solely because one of more of its subsidiaries or affiliates  
57 meets the definition of a foreign adversary company;

58 (6) "Government of China", the People's Republic of China led by the Chinese  
59 Communist Party.

60 3. Except as provided in subsection 6 of this section, the following companies  
61 shall not be eligible to bid on or submit a proposal for a contract for goods and services  
62 with a state agency or political subdivision of the state:

63 (1) A foreign adversary company; or

64 (2) A federally banned corporation.

65 4. For the purposes of complying with subsection 3 of this section, any company  
66 that submits a proposal for a contract for goods and services to any state agency or  
67 political subdivision of the state shall certify that the company is not a foreign adversary  
68 company or a federally banned corporation.

69 5. If the office of administration determines that a company has submitted a  
70 false certification under subsection 4 of this section:

71 (1) The company shall be liable for a civil penalty in an amount that is equal to  
72 the greater of two hundred fifty thousand dollars or twice the amount of the contract  
73 awarded to the company;

74 (2) The office of administration shall terminate the contract with the company;  
75 and

76 (3) The company shall be ineligible to bid on a state contract for five years.

77 6. The provisions of subsection 3 of this section notwithstanding, a state agency  
78 or political subdivision of the state may enter into a contract for goods manufactured by  
79 a foreign adversary company or a federally banned corporation under the following  
80 circumstances:

81 (1) There is no other reasonable option for procuring the good;

82 (2) The contract is pre-approved by the office of administration; and

83 (3) Not procuring this good would pose a greater threat to the state than the  
84 threat associated with the good itself.

✓