

2020 Second Extraordinary Session

SENATE BILL NO. 75

BY SENATOR MILLIGAN

COMMERCIAL REGULATIONS. Provides relative to reporting requirements by certain Chinese enterprises. (gov sig) (Item #28)

1 AN ACT

2 To enact Chapter 61 of Title 51 of the Louisiana Revised Statutes of 1950, to be comprised  
3 of R.S. 51:3211 and 3212, relative to the attorney general; to provide relative to  
4 certain contracts by certain countries or entities with the Department of Economic  
5 Development; to provide for responsibilities of the attorney general; to provide for  
6 written notification to the attorney general; to provide for definitions; to provide for  
7 terms, conditions, and procedures; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. Chapter 61 of Title 51 of the Louisiana Revised Statutes of 1950,  
10 comprised of R.S. 51:3211 and 3212, is hereby enacted to read as follows:

11 **CHAPTER 61. THE PEOPLE'S REPUBLIC**  
12 **OF CHINA OR CHINESE STATE-OWNED ENTERPRISES**  
13 **IN LOUISIANA**

14 **§3211. Definitions**

15 **As used in this Chapter, the following words and phrases shall have the**  
16 **following meanings:**

17 **(1) "Chinese state-owned enterprise" or "enterprise" means an entity**

1 controlled, directly or indirectly, including through formal or informal  
2 arrangements to act in concert, by any of the following:

3 (a) The People's Republic of China.

4 (b) A person owned, controlled by, or acting on behalf of, the People's  
5 Republic of China.

6 (c) A person in which the People's Republic of China has, directly or  
7 indirectly, including through formal or informal arrangements to act in concert,  
8 a five percent or greater interest.

9 (d)(i) A person in which the People's Republic of China has, directly or  
10 indirectly, the right or power to appoint, or approve the appointment of, any  
11 member of the board of directors, board of supervisors, or equivalent governing  
12 body of an entity that holds, directly or indirectly, including formal or informal  
13 arrangements to act in concert, a five percent or greater interest in that person  
14 within the past three years.

15 (ii) A person in which the People's Republic of China has, directly or  
16 indirectly, the right or power to appoint, or approve the appointment of, any  
17 officer of an entity that holds, directly or indirectly, including formal or  
18 informal arrangements to act in concert, a five percent or greater interest in  
19 that person within the past three years.

20 (e)(i) A person in which any member of the board of directors, board of  
21 supervisors, or equivalent governing body of an entity that holds, directly or  
22 indirectly, including formal or informal arrangements to act in concert, a five  
23 percent or greater interest in that person, is a member of the Chinese  
24 Communist Party or was a member of the Chinese Communist Party within the  
25 previous three years.

26 (ii) A person in which any officer of an entity that holds, directly or  
27 indirectly, including through formal or informal arrangements to act in concert,  
28 a five percent or greater interest in that person, is a member of the Chinese  
29 Communist Party or was a member of the Chinese Communist Party within the

1 previous three years.

2 (2) "Department" means the Department of Economic Development.

3 (3) "People's Republic of China" means the national and subnational  
4 governments within the state of the People's Republic of China including but  
5 not limited to their respective departments, agencies, and instrumentalities.

6 (4) "Person" means a natural person or juridical person.

7 §3212. Written notice to the attorney general

8 A. Beginning January 1, 2021, an enterprise that participates in an  
9 incentive or rebate program with the Department of Economic Development,  
10 shall submit to the attorney general written notice that shall contain, the  
11 following information:

12 (a) The terms of purchase or lease.

13 (b) The identity and chain of ownership of the buyer and seller and the  
14 lessor and leasee.

15 (c) The buyer's purpose and reason for making the investment.

16 (d) The sources of all funds used to make the investment.

17 (e) Whether the buyer or any affiliate of the buyer will acquire  
18 intellectual property as a result of the transaction.

19 (f) Whether the buyer or lessor has received subsidies from the People's  
20 Republic of China.

21 B. If the enterprise fails to provide notice within sixty calendar days after  
22 the incentive or rebate was received, the existing contract with the department  
23 shall be void and the attorney general shall bring proceedings to recover all  
24 funds the enterprise received from the department.

25 Section 2. The provisions of this Act shall become effective upon signature by the  
26 governor or, if not signed by the governor, upon expiration of the time for bills to become  
27 law without signature by the governor, as provide by Article III, Section 18 of the  
28 Constitution of Louisiana. If vetoed by the governor and subsequently approved by the  
29 legislature, the provisions of this Act shall become effective on the day following such

1 approval.

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The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Beth O'Quin.

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DIGEST

SB 75 Engrossed

2020 Second Extraordinary Session

Milligan

Proposed law defines the following terms:

- (1) "Chinese state-owned enterprise" or "enterprise" means an entity controlled, directly or indirectly, including through formal or informal arrangements to act in concert, by the following:
  - (a) The People's Republic of China.
  - (b) A person owned, controlled by, or acting on behalf of, the People's Republic of China.
  - (c) A person in which the People's Republic of China has, directly or indirectly, including through formal or informal arrangements to act in concert, a 5% or greater interest.
  - (d) A person in which the People's Republic of China has, directly or indirectly, the right or power to appoint, or approve the appointment of, any members of the governing body, or any officer of an entity that holds, directly or indirectly, including through formal or informal arrangements to act in concert, a 5% or greater interest in that person within the past three years.
  - (e) A person in which any member of the governing body or any officer of an entity that holds, directly or indirectly, including through formal or informal arrangements to act in concert, a 5% or greater interest in that person, is a member of the Chinese Communist Party, or was a member of the Chinese Communist Party within the previous three years.
- (2) "Department" means the Department of Economic Development.
- (3) "People's Republic of China" means the national and subnational governments within the state of the People's Republic of China, including but not limited to their respective departments, agencies, and instrumentalities.
- (4) "Person" means a natural person or juridical person.

Proposed law provides that beginning January 1, 2021, the attorney general shall receive written notification from an enterprise that participates in an incentive or rebate program with the department. The notice shall contain the following information:

- (1) The terms of purchase or lease.
- (2) The identity and chain of ownership of the buyer and seller and the lessor and leasee.
- (3) The buyer's purpose and reason for making the investment.
- (4) The sources of all funds used to make the investment.
- (5) Whether the buyer or any affiliate of the buyer will acquire intellectual property as a result of the transaction.

- (6) Whether the buyer or lessor has received subsidies from the People's Republic of China.

Proposed law provides that within 60 calendar days after the enterprise receives funding from the department, the enterprise shall submit written notice to the attorney general on a form prescribed by the attorney general.

Proposed law provides that if the notification is not submitted to the attorney general as required by proposed law, the existing contract with the department is void and the attorney general shall bring proceedings against the enterprise to recover the funds.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Adds R.S. 51:3211 and 3212)

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Commerce, Consumer Protection, and International Affairs to the original bill

1. Makes technical corrections.
2. Removes the definition of "non-predatory transactions".
3. Defines the term "department" as the Department of Economic Development.
4. Removes requirement of the attorney general to approve certain transactions involving the People's Republic of China or an enterprise.
5. Requires an enterprise to submit to the attorney general written notice within 60 calendar days of receiving the incentive or rebate from the department.
6. Provides that failure to comply with proposed law will nullify the contract and allows the attorney general to recover funds received by the enterprise.