

General Statutes of Connecticut

CHAPTER 738a

FOREIGN DISCRIMINATORY BOYCOTTS

Sec. 42-125a. State policy re discriminatory boycotts.

It is the policy of the state of Connecticut to oppose restraints of trade and unfair trade practices in the form of discriminatory boycotts which are not specifically authorized by the law of the United States and which are fostered or imposed by foreign persons, foreign governments or international organizations against any domestic individual on the basis of race, color, creed, religion, sex, gender identity or expression, nationality or national origin. It is also the policy of the state to oppose any actions, including the formation or continuance of agreements, understandings or contractual arrangements, expressed or implied, which have the effect of furthering such discriminatory boycotts, in order that the peace, health, safety, prosperity and general welfare of all the inhabitants of the state may be protected and ensured. This chapter shall be deemed an exercise of the police power of the state for the protection of the people of this state and shall be administered and principally enforced by the Attorney General. The provisions of this chapter shall be construed liberally so as to effectuate this declaration of policy and the laws and Constitution of the United States, but nothing in this chapter shall be construed to infringe upon the right of the United States government to regulate interstate and foreign commerce.

History: P.A. 77-596, S. 1, 15; P.A. 11-55, S. 20. (P.A. 11-55 included in state policy opposing foreign discriminatory boycotts those boycotts against any domestic individual on basis of gender identity or expression.)

Sec. 42-125b. Definitions. For the purpose of this chapter, unless the context otherwise requires:

(a) "Business relationship" means any aspect of business (1) dealing with the sale, purchase, licensing or provision of goods, services or information; or (2) affecting the ownership, management, employees, hiring practices, customers, clients, supplies, contractors, subcontractors or other business associates of any person engaged in commerce;

(b) "Control" means the power to influence the management or policies of a person or to play a significant role in the implementation thereof;

(c) "Participating in a discriminatory boycott" means the entering into or performing of any agreement, understanding or contractual arrangement for economic benefit by any person with any foreign government, foreign person or international organization, which is not specifically authorized by the laws of the United States and which is

required or imposed, either directly or indirectly, overtly or covertly, by the foreign government, foreign person or international organization in order to restrict, condition, prohibit or interfere with any business relationship in this state on the basis of a domestic individual's race, color, creed, religion, sex, gender identity or expression, nationality or national origin; provided, handling, altering or shipping goods or complying with the commercial laws of a foreign country, unless such laws require discrimination against a domestic individual on the basis of race, color, creed, religion, sex, gender identity or expression, nationality or national origin, shall not constitute a discriminatory boycott;

(d) "Domestic individual" means any person as defined in subdivision (h) of this section, whose residence, domicile or principal place of business is in the state of Connecticut or who does business in the state of Connecticut;

(e) "Foreign government" includes all governments and political subdivisions and the instrumentalities thereof, excepting the governments, political subdivisions, and instrumentalities of the United States and the states, commonwealths, territories, and possessions of the United States, and the District of Columbia;

(f) "Foreign person" means any person whose principal place of residence, business or domicile is outside the United States, or any person controlled directly or indirectly by any other person whose principal place of residence, business or domicile is outside the United States;

(g) "International organization" means any association or organization, of which a substantial portion of the membership includes foreign persons or foreign governments;

(h) "Person" means any individual, partnership, corporation, limited liability company, association, trust or any other legal or commercial entity, including their officers, agents, employees and servants or any other person acting in a representative capacity;

(i) "State of Connecticut" means the state and any political subdivisions thereof.

History: P.A. 77-596, S. 2, 15; P.A. 95-79, S. 159, 189; P.A. 11-55, S. 21. (P.A. 95-79 redefined "person" to include a limited liability company, effective May 31, 1995; P.A. 11-55 amended definition of "participating in a discriminatory boycott" to add references to an individual's "gender identity or expression".)

Sec. 42-125c. Knowing participation in discriminatory boycott prohibited.

No person shall knowingly participate in a discriminatory boycott.

History: P.A. 77-596, S. 3, 15.

Sec. 42-125d. Reports re violations.

If any violation of this chapter comes to the attention of any official of any agency of the state, the chief administrative officer of the agency shall immediately submit a written report of such alleged violation to the Attorney General. The report shall contain a full statement of the facts and circumstances regarding the alleged violation including the names and addresses of all persons who have or may have knowledge or information with respect to it, and shall be accompanied by copies of any documents pertinent to the alleged violation that are in the possession or control of such official making the report.

History: P.A. 77-596, S. 4, 15.

Sec. 42-125e. Attorney General's demand for material relevant to subject matter of investigation.

(a) If the Attorney General believes that a person may be in possession, custody or control of any original or copy of any book, record, report, memorandum, paper, communication, tabulation, map, chart, photograph, mechanical transcription, or other tangible document or recording, which he believes is relevant to the subject matter of an investigation of an alleged violation, he may serve on the person, before institution of a civil proceeding for the alleged violation, a demand in writing which requires such person to produce the documentary material and permit inspection and copying thereof.

(b) The demand of the Attorney General shall: (1) State the statute allegedly violated and the general subject matter of the investigation; (2) describe the nature of documentary material to be produced under the demand with reasonable certainty; (3) prescribe a date for compliance which shall be not less than three days from the date the demand is served; and (4) identify the member of the office of the attorney general to whom the documentary material is to be made available for inspection and copying.

(c) The demand of the Attorney General shall be relevant to the scope of the alleged violation.

(d) Service of the demand of the Attorney General shall be made by (1) delivering an executed copy of the demand to the person to be served; (2) delivering an executed copy of the demand to the duly authorized officer, agent, or employee of the person at its principal place of business, if he is not a natural person or is not available; or (3) mailing by registered or certified mail an executed copy of the demand addressed to the person to be served at his principal place of business in the state or, if he has no place of business in the state, at his principal place of business out of state.

(e) The documentary material demanded under this section shall be produced for inspection and copying during normal business hours at the principal office or place of business of the person served, or at any other time or place mutually agreed to by the person and the Attorney General.

(f) Unless otherwise ordered by the Superior Court for good cause shown, the documentary material or a copy produced pursuant to the demand shall not be presented for inspection or copying by, or its content disclosed to, any individual other than an authorized official of the office of the Attorney General without the consent of the person who produced the material. Copies of the documentary material shall be available for inspection and copying by the person who produced the material or his authorized representative under any reasonable terms and conditions prescribed by the Attorney General. The Attorney General may use the documentary material in the enforcement of this chapter, including presentation before any court. Material which contains trade secrets shall not be presented except with the approval of the superior court in which the action is pending and after adequate notice is given to the person furnishing the material.

(g) A petition to extend the date for compliance or to modify or set aside a demand issued under subsection (a) of this section may be filed at any time before the date for compliance specified in the demand or within twenty days after the demand is served, whichever period is shorter. A petition to require the Attorney General or any other person to perform a duty imposed by this chapter and any other petition in connection with the demand may be filed by the person on whom the demand is served. A petition filed under this subsection shall show good cause and be filed in the superior court for the judicial district where the petitioner resides or has his principal place of business.

(h) If a person fails to comply with a demand for documentary material served on him under this section or if satisfactory copying or reproduction of the material cannot be done and the person refuses to surrender such material, the Attorney General may petition the superior court for the judicial district where the person resides, transacts business, or where the alleged violation occurs, for an order of compliance and may serve such order of the court on the person. If the person transacts business in more than one judicial district the petition shall be filed in the judicial district wherein the person maintains his principal place of business, or in any other judicial district agreed to by the parties to the petition.

History: P.A. 77-596, S. 5, 15; P.A. 82-472, S. 123, 183. [P.A. 82-472 amended Subsecs. (g) and (h) by deleting obsolete references to counties.]

Sec. 42-125f. Assurance of discontinuance.

In enforcing this chapter, the Attorney General may accept an assurance of discontinuance of an act or practice considered in violation of this chapter from any person engaged in the act or practice. The assurance of discontinuance shall be in writing and filed with and subject to the approval of the court for the judicial district where the alleged violator resides or has his principal place of business. The assurance of discontinuance shall not be considered for any purpose as an admission of the alleged

violation, but proof of failure to comply with the assurance of discontinuance shall be prima facie evidence of a violation of this chapter.

History: P.A. 77-596, S. 6, 15; P.A. 82-472, S. 124, 183. [P.A. 82-472 deleted obsolete reference to the court for the “county”.]

Sec. 42-125g. Violations referred to state's attorney. The Attorney General shall refer to the appropriate state's attorney alleged criminal violations of this chapter for investigation and prosecution. No prosecution for any offense in violation of this chapter shall be commenced but within four years after such offense is committed.

History: P.A. 77-596, S. 7, 15.

Sec. 42-125h. Attorney General to cooperate with federal government and other states. The Attorney General shall cooperate with the federal government and other states in enforcement of this chapter.

History: P.A. 77-596, S. 8, 15.

Sec. 42-125i. Actions to enjoin violations; recover damages. Standing to bring an action. Limitation of action.

(a) The Attorney General shall institute proceedings to prevent or restrain violations of section 42-125c in the Superior Court. In a proceeding under this section, the Superior Court shall determine whether a violation has been committed and enter any judgment or decree to enjoin continuation or renewal of the violation in the future.

(b) The Attorney General may bring an action on behalf of the state or any of its political subdivisions to recover the damages provided for by this chapter.

(c) The state of Connecticut or its political subdivisions have standing to bring an action under this chapter.

(d) Persons injured or threatened with injury by a violation of section 42-125c may bring an action in the Superior Court for damages and injunctive relief against any person who has committed the violation. If an injunction is issued, the complainant may be awarded costs and reasonable attorney's fees.

(e) No action brought to enforce the provisions of this chapter shall be brought but within four years from the date the cause of action accrues. For the purposes of this subsection, a cause of action for a continuing violation accrues at the time of the latest violation.

(f) An action brought by the Attorney General shall not preclude the bringing of an action by persons injured or threatened with injury, as provided in subsection (d) of this section.

History: P.A. 77-596, S. 9, 15.

Sec. 42-125j. Penalties.

Any person who knowingly violates any of the provisions of section 42-125c shall be fined not more than fifty thousand dollars or imprisoned not more than six months or both.

History: P.A. 77-596, S. 10, 15.

Sec. 42-125k. Contract provisions void as against public policy.

When. Any provision of any contract, document or other agreement which violates, or which, if performed by the person intended to be bound by such provision, would cause a violation of section 42-125c, shall be void as against the public policy of the state of Connecticut.

History: P.A. 77-596, S. 11, 15.

Sec. 42-125l. Regulations.

The Commissioner of Economic and Community Development may adopt regulations for the purpose of implementing and enforcing the provisions of this chapter.

History: P.A. 77-596, S. 12, 15; 77-614, S. 284, 587, 610; P.A. 78-303, S. 85, 136; P.A. 95-250, S. 1; P.A. 96-211, S. 1, 5, 6. [P.A. 77-614 and 78-303 replaced commissioner of commerce with commissioner of economic development, effective January 1, 1979; P.A. 95-250 and P.A. 96-211 replaced Commissioner and Department of Economic Development with Commissioner and Department of Economic and Community Development.]

Sec. 42-125m. Application of chapter.

The provisions of this chapter shall apply only to agreements, understandings or contractual arrangements entered into on or after July 1, 1978 and any such agreement, understanding or contractual arrangement in violation of this chapter entered into prior to said date shall be deemed not to be against the public policy of this state.

History: P.A. 77-596, S. 13, 15.

Sec. 42-125n. Antitrust laws not limited. Nothing contained in this chapter shall be deemed to supersede, restrict or otherwise limit the continuing applicability of the antitrust laws of the state of Connecticut.

History: P.A. 77-596, S. 14, 15.