HOUSE BILL NO. 94

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-THIRD LEGISLATURE - FIRST SESSION

BY REPRESENTATIVE SHAW

Introduced: 3/6/23
Referred: Labor and Commerce, State Affairs, Finance

A BILL

FOR AN ACT ENTITLED

"An Act relating to the use of the ports in the state; relating to contracts with certain foreign-owned entities; relating to the use of TikTok; relating to commerce with certain foreign-owned entities; relating to investments of state funds in certain foreign-owned entities; and providing for an effective date."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* **Section 1.** AS 30.50 is amended by adding a new section to read:

Sec. 30.50.030. Ban on use of ports in the state. (a) Notwithstanding any other provision of law, a ship may not dock at a port in the state if the ship

(1) is operated or owned, in whole or in part, by a foreign-owned entity from a country listed in (b) of this section; or

(2) carries cargo that is grown or produced in a country listed in (b) of this section.

(b) The provisions of (a) of this section apply to foreign-owned entities from and cargo grown or produced in the following countries:

(1) Syria;

(2) Iran;

(3) North Korea;

(4) Cuba;

(5) Russia;

(6) China; or

(7) any country designated by the United States Secretary of State as a state sponsor of terrorism.

(c) In this section,

(1) "foreign-owned entity"

(A) means an entity identified by the Office of Foreign Assets Control of the United States Department of the Treasury as

(i) being owned or controlled by, or having acted or purported to act for or on behalf of, the government of a foreign country; or

(ii) operating or having operated in the financial services sector of the economy of a foreign country;

(B) does not include a company the United States federal government excludes from federal sanctions;

(2) "state sponsor of terrorism" means a country that repeatedly provides support for acts of international terrorism as designated by the United States Secretary of State under sec. 1754(c), P.L. 115-232 (John S. McCain National Defense Authorization Act for Fiscal Year 2019), 22 U.S.C. 2780 (Arms Export Control Act), or 22 U.S.C. 2371 (Foreign Assistance Act of 1961).

*** Sec. 2.** AS 36.30 is amended by adding a new section to read:

Sec. 36.30.375. Ban on contracts with certain foreign-owned entities. Notwithstanding any other provision of this chapter, a state agency may not contract with or procure supplies, services, or professional services from a foreign-owned entity from a country listed in AS 30.50.030(b). In this section, "foreign-owned entity" has the meaning given in AS 30.50.030(c).

*** Sec. 3.** AS 44.99.040(b)(1) is amended to read:

(1) "asset" means funds, facilities, equipment, services, **network systems,** or other resources of a state or municipal agency;

*** Sec. 4.** AS 44.99.040(b) is amended by adding a new paragraph to read:

(3) "TikTok" means the social networking service owned by the Chinese company ByteDance Limited or any successor application.

*** Sec. 5.** AS 44.99.040 is amended by adding a new subsection to read:

(c) An asset of a state or municipal agency may not be used to download TikTok, access the TikTok application, or visit the TikTok website. A state or municipal agency shall implement controls to prevent the use of TikTok on a device connected to a network owned, operated, or controlled by the state or municipal agency.

*** Sec. 6.** AS 45.45 is amended by adding a new section to read:

Sec. 45.45.940. Ban on commerce with certain foreign-owned entities. (a) Notwithstanding any other provision of law, a governmental agency may not export an item from the state to a country listed in (b) of this section or import an item to the state from a country listed in (b) of this section.

(b) The provisions of (a) of this section apply to the following countries:

(1) Syria;

(2) Iran;

(3) North Korea;

(4) Cuba;

(5) Russia;

(6) China; or

(7) any country designated by the United States Secretary of State as a state sponsor of terrorism.

(c) In this section,

(1) "fish" has the meaning given in AS 16.05.940;

(2) "governmental agency" means the state, an agency of the state, a municipality, or an agency of a municipality;

(3) "item" includes fish, alcoholic beverages, petroleum, and natural gas;

(4) "state sponsor of terrorism" means a country that repeatedly provides support for acts of international terrorism as designated by the United States Secretary of State under sec. 1754(c), P.L. 115-232 (John S. McCain National Defense Authorization Act for Fiscal Year 2019), 22 U.S.C. 2780 (Arms Export Control Act), or 22 U.S.C. 2371 (Foreign Assistance Act of 1961).

* **Sec. 7.** The uncodified law of the State of Alaska is amended by adding a new section to read:

DIVESTMENT; DIVESTMENT EXEMPTIONS, IMMUNITY, AND INDEMNIFICATION; NOTICE. (a) Notwithstanding any other provision of law, and except as provided otherwise in (h) of this section, the commissioner or a fiduciary of a fund subject to AS 37 may not invest in and shall cause the fund to divest ownership, if any, in the publicly traded securities or debt instruments of foreign-owned entities from the following countries:

(1) Syria;

(2) Iran;

(3) North Korea;

(4) Cuba;

(5) Russia;

(6) China; or

(7) any country designated by the United States Secretary of State as a state sponsor of terrorism.

(b) Divestment of an ownership interest in the publicly traded securities or debt instruments of a foreign-owned entity from a country listed in (a) of this section shall occur within 180 days after the entity is identified under (d) of this section. If a fund has investments managed by an outside investment manager, the fiduciary shall, within 180 days after the foreign-owned entity is identified under (d) of this section, direct the investment manager not to invest in and to divest, within 180 days after receiving the direction, ownership, if any, in the publicly traded securities or debt instruments of a company identified under this section.

(c) If an investment in a fund under (a) of this section is managed as a commingled investment or other business structure in which the fund is not the sole owner of the investment interest or if the investment is an index fund, the provisions of (a) and (b) of this section do not apply. The commissioner shall require that, within 180 days after the commissioner identifies a foreign-owned entity under (d) of this section, the fiduciary submit letters to the managers of commingled investments requesting the managers to consider removing the foreign-owned entity from the commingled investment.

(d) The commissioner shall

(1) identify foreign-owned entities from the countries listed in (a) of this section and create and regularly update a list of those entities;

(2) provide to each foreign-owned entity identified under this subsection written notice and an opportunity to comment in writing.

(e) On or before January 31, 2024, the commissioner shall advise the president of the senate and the speaker of the house of representatives of the foreign-owned entities identified under (d) of this section.

(f) For actions taken or inaction done, in good faith, in compliance with this section, the commissioner or a fiduciary, or an agent, attorney, trustee, officer, employee, staff member, custodian, research firm, or investment manager under contract of the commissioner or the fiduciary, or a board member is

(1) exempt from a conflicting state statutory or common law obligation, including an obligation with respect to choice of an asset manager, investment fund, or investment for the securities portfolio of the public fund;

(2) immune from liability under state or local law;

(3) indemnified and held harmless by the state from claims, demands, suits, actions, damages, judgments, costs, charges, and expenses, including costs and attorney fees, and against all liability, losses, and damages of any nature that the commissioner or the fiduciary, or the agent, attorney, trustee, officer, employee, staff member, custodian, research firm, or investment manager under contract of the commissioner or the fiduciary, or the board member may, at any time, sustain because of a decision to restrict, reduce, or eliminate an investment made in compliance with this section; and

(4) immune from adverse licensing actions under AS 08.

(g) Not later than 30 days after the enactment of this Act, the Department of Law shall submit written notice to the United States Attorney General describing this Act.

(h) The commissioner or a fiduciary of a fund is not required to divest from an investment under this section if the commissioner or fiduciary determines that divestment is not consistent with the fiduciary responsibilities of the commissioner or the fiduciary.

(i) The commissioner may adopt regulations under AS 44.62 (Administrative Procedure Act) to carry out the purposes of this section.

(j) In this section,

(1) "commissioner" means the commissioner of revenue;

(2) "foreign-owned entity"

(A) means an entity identified by the Office of Foreign Assets Control of the United States Department of the Treasury as

(i) being owned or controlled by, or having acted or purported to act for or on behalf of, the government of a foreign country; or

(ii) operating or having operated in the financial services sector of the economy of a foreign country;

(B) does not include a company the United States federal government excludes from federal sanctions;

(3) "state sponsor of terrorism" means a country that repeatedly provides support for acts of international terrorism as designated by the United States Secretary of State under sec. 1754(c), P.L. 115-232 (John S. McCain National Defense Authorization Act for Fiscal Year 2019), 22 U.S.C. 2780 (Arms Export Control Act), or 22 U.S.C. 2371 (Foreign Assistance Act of 1961).

*** Sec. 8.** The uncodified law of the State of Alaska is amended by adding a new section to read:

APPLICABILITY. (a) AS 30.50.030, enacted by sec. 1 of this Act, does not apply to the docking of a ship operated or owned by a foreign-owned entity or a ship that carries cargo grown or produced by a foreign-owned entity if a contract for the docking was entered into before the effective date of sec. 1 of this Act.

(b) AS 45.45.940, enacted by sec. 6 of this Act, does not apply to the export or import of an item if a contract for the export or import of the item was entered into before the effective date of sec. 6 of this Act. In this section, "item" has the meaning given in AS 45.45.940(c), enacted by sec. 6 of this Act.

*** Sec. 9.** The uncodified law of the State of Alaska is amended by adding a new section to read:

TRANSITION. (a) Within 30 days after the effective date of this Act, the commissioner of revenue shall create an initial list of foreign-owned entities under sec. 7(d)(1) of this Act.

(b) Except as otherwise provided in sec. 7(h) of this Act, notwithstanding

(1) secs. 7(a) and (b) of this Act, the commissioner of revenue, a fiduciary of a fund subject to AS 37, or an outside investment manager shall, within 180 days after the effective date of this Act, divest ownership in the initial list of foreign-owned entities created under (a) of this section;

(2) sec. 7(c) of this Act, the commissioner of revenue shall, or shall require a fiduciary to, within 180 days after the effective date of this Act, submit a letter consistent with sec. 7(c) of this Act to a manager of a commingled investment that includes a foreign-owned entity on the initial list created under (a) of this section.

* **Sec. 10.** Section 7 of this Act is repealed January 1, 2025.

* **Sec. 11.** This Act takes effect immediately under AS 01.10.070(c).