

104TH CONGRESS
1ST SESSION

S. 706

To prohibit the importation of goods produced abroad with child labor, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 6 (legislative day, APRIL 5), 1995

Mr. HARKIN (for himself, Mr. CONRAD, Mr. CAMPBELL, Mr. KENNEDY, Mr. HEFLIN, Ms. MIKULSKI, and Mr. LEVIN) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To prohibit the importation of goods produced abroad with child labor, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Child Labor Deter-
5 rence Act of 1995”.

6 **SEC. 2. FINDINGS, PURPOSE, AND POLICY.**

7 (a) FINDINGS.—The Congress finds the following:

8 (1) Principle 9 of the Declaration of the Rights
9 of the Child proclaimed by the General Assembly of
10 the United Nations on November 20, 1959, states

1 that “. . . the child shall not be admitted to employ-
2 ment before an appropriate minimum age; he shall
3 in no case be caused or permitted to engage in any
4 occupation or employment which would prejudice his
5 health or education, or interfere with his physical,
6 mental, or moral development . . .”.

7 (2) Article 2 of the International Labor Con-
8 vention No. 138 Concerning Minimum Age For Ad-
9 mission to Employment states that, “The minimum
10 age specified in pursuance of paragraph 1 of this ar-
11 ticle shall not be less than the age of compulsory
12 schooling and, in any case, shall not be less than 15
13 years.”.

14 (3) According to the International Labor Orga-
15 nization, worldwide an estimated 200,000,000 chil-
16 dren under age 15 are working, many of them in
17 dangerous industries like mining and fireworks.

18 (4) Children under the age 15 constitute ap-
19 proximately 11 percent of the workforce in some
20 Asian countries, 17 percent in parts of Africa, and
21 a reported 12–26 percent in many countries in Latin
22 America.

23 (5) The number of children under age 15 who
24 are working, and the scale of their suffering, in-
25 crease every year, despite the existence of more than

1 20 International Labor Organization conventions on
2 child labor and laws in many countries which pur-
3 portedly prohibit the employment of under age chil-
4 dren.

5 (6) In many countries, children under the age
6 15 lack either the legal standing or means to protect
7 themselves from exploitation in the workplace.

8 (7) The prevalence of child labor in many devel-
9 oping countries is rooted in widespread poverty
10 that is attributable to unemployment and
11 underemployment, precarious incomes, low living
12 standards, and insufficient education and training
13 opportunities among adult workers.

14 (8) The employment of children under the age
15 of 15 commonly deprives the children of the oppor-
16 tunity for basic education and also denies gainful
17 employment to millions of adults.

18 (9) The employment of children under the age
19 of 15, often at pitifully low wages, undermines the
20 stability of families and ignores the importance of
21 increasing jobs, aggregated demand, and purchasing
22 power among adults as a catalyst to the development
23 of internal markets and the achievement of
24 broadbased, self-reliant economic development in
25 many developing countries.

1 (b) PURPOSE.—The purpose of this Act is to curtail
2 the employment of children under age 15 in the production
3 of goods for export by—

4 (1) eliminating the role of the United States in
5 providing a market for foreign products made by un-
6 derage children;

7 (2) supporting activities and programs to ex-
8 tend primary education, rehabilitation, and alter-
9 native skills training to underage child workers, to
10 improve birth registration, and to improve the scope
11 and quality of statistical information and research
12 on the commercial exploitation of children in the
13 workplace; and

14 (3) encouraging other nations to join in a ban
15 on trade in products described in paragraph (1) and
16 to support those activities and programs described in
17 paragraph (2).

18 (c) POLICY.—It is the policy of the United States—

19 (1) to discourage actively the employment of
20 children under age 15 in the production of goods for
21 export or domestic consumption;

22 (2) to strengthen and supplement international
23 trading rules with a view to renouncing the use of
24 underage children in production as a means of com-
25 peting in international trade;

1 (3) to amend United States law to prohibit the
2 entry into commerce of products resulting from the
3 labor of underage children; and

4 (4) to offer assistance to foreign countries to
5 improve the enforcement of national laws prohibiting
6 the employment of children under age 15 and to in-
7 crease assistance to alleviate the underlying poverty
8 that is often the cause of the commercial exploi-
9 tation of children under age 15.

10 **SEC. 3. UNITED STATES INITIATIVE TO CURTAIL INTER-**
11 **NATIONAL TRADE IN PRODUCTS OF CHILD**
12 **LABOR.**

13 In pursuit of the policy set forth in this Act, the
14 President is urged to seek an agreement with governments
15 that conduct trade with the United States for the purpose
16 of securing an international ban on trade in the products
17 of child labor.

18 **SEC. 4. IDENTIFICATION OF FOREIGN INDUSTRIES AND**
19 **THEIR RESPECTIVE HOST COUNTRIES THAT**
20 **UTILIZE CHILD LABOR IN EXPORT OF GOODS.**

21 (a) IDENTIFICATION OF INDUSTRIES AND HOST
22 COUNTRIES.—The Secretary of Labor (hereafter in this
23 section referred to as the “Secretary”) shall undertake
24 periodic reviews using all available information, including
25 information made available by the International Labor Or-

1 ganization and human rights organizations (the first such
2 review to be undertaken not later than 180 days after the
3 date of the enactment of the Act), to identify any foreign
4 industry that—

5 (1) does not comply with the applicable national
6 laws prohibiting child labor in the workplace;

7 (2) utilizes child labor in the export of products;
8 and

9 (3) has on a continuing basis exported products
10 of child labor to the United States.

11 For purposes of this Act, the identification of a foreign
12 industry shall be treated as also being an identification
13 of the host country.

14 (b) PETITIONS REQUESTING IDENTIFICATION.—

15 (1) FILING.—Any person may file a petition
16 with the Secretary requesting that a particular for-
17 eign industry and its host country be identified
18 under subsection (a). The petition must set forth the
19 allegations in support of the request.

20 (2) ACTION ON RECEIPT OF PETITION.—Not
21 later than 90 days after receiving a petition under
22 paragraph (1), the Secretary shall—

23 (A) decide whether or not the allegations
24 in the petition warrant further action by the

1 Secretary in regard to the foreign industry and
2 its host country under subsection (a); and

3 (B) notify the petitioner of the decision
4 under subparagraph (A) and the facts and rea-
5 sons supporting the decision.

6 (c) CONSULTATION AND COMMENT.—Prior to identi-
7 fying a foreign industry and its host country under sub-
8 section (a), the Secretary shall—

9 (1) consult with the United States Trade Rep-
10 resentative, the Secretary of State, the Secretary of
11 Commerce, and the Secretary of the Treasury re-
12 garding such action;

13 (2) hold at least 1 public hearing within a rea-
14 sonable time for the receipt of oral comment from
15 the public regarding such a proposal identification;

16 (3) publish notice in the Federal Register—

17 (A) that such an identification is being
18 considered,

19 (B) of the time and place of the hearing
20 scheduled under paragraph (2), and

21 (C) inviting the submission within a rea-
22 sonable time of written comment from the pub-
23 lic; and

24 (4) take into account the information obtained
25 under paragraphs (1), (2), and (3).

1 (d) REVOCATION OF IDENTIFICATION.—

2 (1) IN GENERAL.—Subject to paragraph (2),
3 the Secretary may revoke the identification of any
4 foreign industry and its host country under sub-
5 section (a) if information available to the Secretary
6 indicates that such action is appropriate.

7 (2) REPORT OF SECRETARY.—No revocation
8 under paragraph (1) may take effect earlier than the
9 60th day after the date on which the Secretary sub-
10 mits to the Congress a written report—

11 (A) stating that in the opinion of the Sec-
12 retary the foreign industry and host country
13 concerned does not utilize child labor in the ex-
14 port of products; and

15 (B) stating the facts on which such opinion
16 is based and any other reason why the Sec-
17 retary considers the revocation appropriate.

18 (3) PROCEDURE.—No revocation under para-
19 graph (1) may take effect unless the Secretary—

20 (A) publishes notice in the Federal Reg-
21 ister that such a revocation is under consider-
22 ation and inviting the submission within a rea-
23 sonable time of oral and written comments from
24 the public on the revocation; and

1 (B) takes into account the information re-
2 ceived under subparagraph (A) before preparing
3 the report required under paragraph (2).

4 (e) PUBLICATION.—The Secretary shall—

5 (1) promptly publish in the Federal Register—

6 (A) the name of each foreign industry and
7 its host country identified under subsection (a);

8 (B) the text of the decision made under
9 subsection (b)(2)(A) and a statement of the
10 facts and reasons supporting the decision; and

11 (C) the name of each foreign industry and
12 its host country with respect to which an identi-
13 fication has been revoked under subsection (d);
14 and

15 (2) maintain in the Federal Register a current
16 list of all foreign industries and their respective host
17 countries identified under subsection (a).

18 **SEC. 5. PROHIBITION ON ENTRY.**

19 (a) PROHIBITION.—

20 (1) IN GENERAL.—Except as provided in para-
21 graph (2), during the effective identification period
22 for a foreign industry and its host country the Sec-
23 retary may not permit the entry of any manu-
24 factured article that is a product of that foreign
25 industry.

1 (2) EXCEPTION.—Paragraph (1) shall not
2 apply to the entry of a manufactured article—

3 (A) for which a certification that meets the
4 requirements of subsection (b) is provided and
5 the article, or the packaging in which it is of-
6 fered for sale, contains, in accordance with reg-
7 ulations prescribed by the Secretary, a label
8 stating that the article is not a product of child
9 labor;

10 (B) that is entered under any subheading
11 in subchapter IV or VI of chapter 98 (relating
12 to personal exemptions) of the Harmonized
13 Tariff Schedule of the United States; or

14 (C) that was exported from the foreign in-
15 dustry and its host country and was en route
16 to the United States before the first day of the
17 effective identification period for such industry
18 and its host country.

19 (b) CERTIFICATION THAT ARTICLE IS NOT A PROD-
20 UCT OF CHILD LABOR.—

21 (1) FORM AND CONTENT.—The Secretary shall
22 prescribe the form and content of documentation, for
23 submission in connection with the entry of a manu-
24 factured article, that satisfies the Secretary that the
25 exporter of the article in the host country, and the

1 importer of the article into the customs territory of
2 the United States, have undertaken reasonable steps
3 to ensure, to the extent practicable, that the article
4 is not a product of child labor.

5 (2) REASONABLE STEPS.—For purposes of
6 paragraph (1), “reasonable steps” include—

7 (A) in the case of the exporter of an article
8 in the host country—

9 (i) having entered into a contract,
10 with an organization described in para-
11 graph (4) in that country, allowing inspec-
12 tions for the purpose of certifying that the
13 article is not a product of child labor, and
14 will affix a label, protected under the copy-
15 right or trademark laws of the host coun-
16 try, that contains such certification; and

17 (ii) having affixed to the article a
18 label described in clause (1); and

19 (B) in the case of the importer of an arti-
20 cle into the customs territory of the United
21 States, having required the certification and
22 label described in subparagraph (A) in the
23 agreement setting forth the terms and condi-
24 tions of the acquisition or provision of the im-
25 ported article.

1 (3) WRITTEN EVIDENCE.—The documentation
2 required by the Secretary under paragraph (1) shall
3 include written evidence that the reasonable steps
4 set forth in paragraph (2) have been taken.

5 (4) CERTIFYING ORGANIZATIONS.—The Sec-
6 retary shall compile and maintain a list of independ-
7 ent, internationally credible organizations, in any
8 host country identified under section 4, that have
9 been established for the purpose of conducting in-
10 spections, certifying, and labelling that manufac-
11 tured articles to be exported from that country are
12 not products of child labor. Each such organization
13 shall consist of representatives of nongovernmental
14 child welfare organizations, manufacturers, export-
15 ers, and neutral international organizations.

16 **SEC. 6. PENALTIES.**

17 (a) UNLAWFUL ACTS.—It is unlawful—

18 (1) during the effective identification period ap-
19 plicable to a foreign industry and its host country,
20 to attempt to enter any manufactured article that is
21 a product of that industry if the entry is prohibited
22 under section 5(a)(1); or

23 (2) to violate any regulation prescribed under
24 section 7.

1 (b) CIVIL PENALTY.—Any person who commits any
2 unlawful act set forth in subsection (a) is liable for a civil
3 penalty of not to exceed \$25,000.

4 (c) CRIMINAL PENALTY.—In addition to being liable
5 for a civil penalty under subsection (b), any person who
6 intentionally commits any unlawful act set forth in sub-
7 section (a) is, upon conviction, liable for a fine of not less
8 than \$10,000 and not more than \$35,000, or imprison-
9 ment for 1 year, or both.

10 (d) CONSTRUCTION.—The violations set forth in sub-
11 section (a) shall be treated as violations of the customs
12 laws for purposes of applying the enforcement provisions
13 of the Tariff Act of 1930, including—

14 (1) the search, seizure and forfeiture provisions;

15 (2) section 592 (relating to penalties for entry
16 by fraud, gross negligence, or negligence); and

17 (3) section 619 (relating to compensation to in-
18 formers).

19 **SEC. 7. REGULATIONS.**

20 The Secretary shall prescribe regulations that are
21 necessary or appropriate to carry out this Act.

22 **SEC. 8. DEFINITIONS.**

23 For the purposes of this Act:

1 (1) MANUFACTURED ARTICLE.—A manufac-
2 tured article shall be treated as being a product of
3 child labor if the article—

4 (A) was fabricated, assembled, or proc-
5 essed, in whole or part;

6 (B) contains any part that was fabricated,
7 assembled, or processed, in whole or in part; or

8 (C) was mined, quarried, pumped, or oth-
9 erwise extracted;

10 by one or more children who engaged in the fabrica-
11 tion, assembly, processing, or extraction—

12 (i) in exchange for remuneration (regard-
13 less to whom paid), subsistence, goods or serv-
14 ices, or any combination of the foregoing;

15 (ii) under circumstances tantamount to in-
16 voluntary servitude; or

17 (iii) under exposure to toxic substances or
18 working conditions otherwise posing serious
19 health hazards.

20 (2) CHILD.—The term “child” means—

21 (A) an individual who has not attained the
22 age of 15, as measured by the Julian calendar;
23 or

24 (B) an individual who has not attained the
25 age of 14, as measured by the Julian calendar,

1 in the case of a country identified under section
2 4 whose national laws define a child as such an
3 individual.

4 (3) EFFECTIVE IDENTIFICATION PERIOD.—The
5 term “effective identification period” means, with re-
6 spect to a foreign industry or country, the period
7 that—

8 (A) begins on the date of that issue of the
9 Federal Register in which the identification of
10 the foreign industry or country is published
11 under section 4(e)(1)(A); and

12 (B) terminates on the date of that issue on
13 the Federal Register in which the revocation of
14 the identification referred to in subparagraph
15 (A) is published under section 4(e)(1)(B).

16 (4) ENTERED.—The term “entered” means en-
17 tered, or withdrawn from warehouse for consump-
18 tion, in the customs territory of the United States.

19 (5) FOREIGN INDUSTRY.—The term “foreign
20 industry” includes any entity that produces a manu-
21 factured article in a host country.

22 (6) HOST COUNTRY.—The term “host country”
23 means any foreign country and any possession or
24 territory of a foreign country that is administered
25 separately for customs purposes (and includes any

1 designated zone within such country, possession, or
2 territory) in which a foreign industry is located.

3 (7) MANUFACTURED ARTICLE.—The term
4 “manufactured article” means any good that is fab-
5 ricated, assembled, or processed. The term also in-
6 cludes any mineral resource (including any mineral
7 fuel) that is entered in a crude state. Any mineral
8 resource that at entry has been subjected to only
9 washing, crushing, grinding, powdering, levigation,
10 sifting, screening, or concentration by flotation,
11 magnetic separation, or other mechanical or physical
12 processes shall be treated as having been processed
13 for the purposes of this Act.

14 (8) SECRETARY.—The term “Secretary”, except
15 for purposes of section 4, means the Secretary of the
16 Treasury.

17 **SEC. 9. UNITED STATES SUPPORT FOR DEVELOPMENTAL**
18 **ALTERNATIVES FOR UNDERAGE CHILD**
19 **WORKERS.**

20 In order to carry out section 2(c)(4), there is author-
21 ized to be appropriated to the President the sum of—

22 (1) \$10,000,000 for each of fiscal years 1996
23 through 2000 for a United States contribution to
24 the International Labor Organization for the activi-

1 ties of the International Program on the Elimination
2 of Child Labor; and

3 (2) \$100,000 for fiscal year 1996 for a United
4 States contribution to the United Nations Commis-
5 sion on Human Rights for those activities relating to
6 bonded child labor that are carried out by the Sub-
7 committee and Working Group on Contemporary
8 Forms of Slavery.

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