

106TH CONGRESS  
1ST SESSION

# H. R. 90

To amend the Fair Labor Standards Act of 1938 to provide for legal accountability for sweatshop conditions in the garment industry, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JANUARY 6, 1999

Mr. CLAY (for himself, Ms. VELÁZQUEZ, Mr. OWENS, Mrs. MINK of Hawaii, Mr. GEORGE MILLER of California, Mr. PAYNE, Ms. WOOLSEY, Mr. FORD, Mr. FATTAH, Mr. ABERCROMBIE, Mr. BORSKI, Mr. BROWN of Ohio, Ms. DELAUR, Mr. DIXON, Mr. GREEN of Texas, Mr. HINCHEY, Mr. LAFALCE, Mr. LANTOS, Ms. LEE, Ms. MILLENDER-MCDONALD, Mr. OLVER, Mr. PASCRELL, Mr. PRICE of North Carolina, Mr. RAHALL, Mr. ROTHRMAN, Mr. SANDERS, Mr. WISE, and Mr. WYNN) introduced the following bill; which was referred to the Committee on Education and the Workforce

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# A BILL

To amend the Fair Labor Standards Act of 1938 to provide for legal accountability for sweatshop conditions in the garment industry, 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 AND REFERENCE.**

4       (a) SHORT TITLE.—This Act may be cited as the

5       “Stop Sweatshops Act”.

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1       (b) REFERENCE.—Whenever in this Act an amend-  
2 ment or repeal is expressed in terms of an amendment  
3 to, or repeal of, a section or other provision, the reference  
4 shall be considered to be made to a section or other provi-  
5 sion of the Fair Labor Standards Act of 1938.

6 **SEC. 2. FINDINGS.**

7       The Congress makes the following findings:

8               (1) The production of garments in violation of  
9 minimum labor standards burdens commerce and  
10 the free flow of goods in commerce by spreading and  
11 perpetuating labor conditions that undermine mini-  
12 mum living standards and by providing an unfair  
13 means of competition to the detriment of employers  
14 who comply with the law.

15               (2) The existence of working conditions det-  
16 rimental to fair competition and the maintenance of  
17 minimum standards of living necessary for health,  
18 efficiency, and general well-being of workers are a  
19 continuing and growing problem in the domestic gar-  
20 ment industry.

21               (3) The Congress concurs in the findings of the  
22 Comptroller General that most sweatshop employers  
23 violate the recordkeeping requirements of the Fair  
24 Labor Standards Act of 1938 and that the failure  
25 of such employers to maintain adequate records has

1 and continues to adversely affect the ability of the  
2 Department of Labor to collect wages due to work-  
3 ers.

4 (4) The amendment of the Fair Labor Stand-  
5 ards Act of 1938 to provide for legal responsibility  
6 on the part of manufacturers for compliance with  
7 such Act's wage and hour, child labor, and industrial  
8 homework provisions by contractors in the garment  
9 industry and to provide civil penalties for violations  
10 of that Act's recordkeeping requirements is nec-  
11 essary to promote fair competition and working con-  
12 ditions that are not detrimental to the maintenance  
13 of health, efficiency, and general well-being of work-  
14 ers in the garment industry.

15 **SEC. 3. LEGAL RESPONSIBILITY FOR COMPLIANCE WITH**  
16 **WAGE AND HOUR PROVISIONS IN THE GAR-**  
17 **MENT INDUSTRY.**

18 (a) AMENDMENT.—The Fair Labor Standards Act of  
19 1938 is amended by adding after section 14 the following:  
20 “LEGAL RESPONSIBILITY FOR COMPLIANCE IN THE  
21 GARMENT INDUSTRY WITH SECTIONS 6 AND 7  
22 “SEC. 14A. (a) Every manufacturer engaged in the  
23 garment industry who contracts to have garment manu-  
24 facturing operations performed by another person as a  
25 contractor—

1           “(1) shall be civilly liable, with respect to those  
2           garment manufacturing operations, to the same ex-  
3           tent as the contractor for any violation by the con-  
4           tractor of section 6 (except for violations of sub-  
5           section (d)) or 7, for any violation by the contractor  
6           of the provisions of section 11 regulating, restrict-  
7           ing, or prohibiting industrial homework, and for vi-  
8           lation by the contractor of section 12; and

9           “(2) shall be subject to the same civil penalties  
10          assessed against the contractor for violations of such  
11          sections.

12          “(b) For purposes of this section:

13           “(1) The term ‘garment industry’ means the  
14          designing, cutting, sewing, dyeing, washing, finish-  
15          ing, assembling, pressing, or otherwise producing  
16          men’s, women’s, children’s, or infants’ apparel, in-  
17          cluding clothing, knit goods, hats, gloves, handbags,  
18          hosiery, ties, scarves, and belts, or a section or com-  
19          ponent of apparel, except for pre-manufactured  
20          items such as buttons, zippers, snaps, and studs, de-  
21          signed or intended to be worn by any individual  
22          which is to be sold or offered for sale.

23           “(2) The term ‘manufacturer’ means any per-  
24          son who (A) contracts, directly or indirectly through  
25          an intermediary or otherwise, with a contractor to

1 perform the cutting, sewing, dyeing, washing, finish-  
2 ing, assembling, pressing, or otherwise producing  
3 any men's, women's, children's, or infants' apparel,  
4 including clothing, knit goods, hats, gloves, hand-  
5 bags, hosiery, ties, scarves, and belts, or a section or  
6 component of apparel, except for pre-manufactured  
7 items such as buttons, zippers, snaps, and studs, de-  
8 signed or intended to be worn by any individual  
9 which is to be sold or offered for sale, including a  
10 retailer engaged in such activities, or (B) designs,  
11 cuts, sews, dyes, washes, finishes, assembles, press-  
12 es, or otherwise produces or is responsible for the  
13 production of any men's, women's, children's, or in-  
14 fants' apparel, including clothing, knit goods, hats,  
15 gloves, handbags, hosiery, ties, scarves, and belts, or  
16 a section or component of apparel, except for pre-  
17 manufactured items such as buttons, zippers, snaps,  
18 and studs, designed or intended to be worn by any  
19 individual which is to be sold or offered for sale.

20           “(3) The term ‘contractor’ means any person  
21 who contracts, directly or indirectly through an  
22 intermediary or otherwise, with a manufacturer to  
23 perform the cutting, sewing, dyeing, washing, finish-  
24 ing, assembling, pressing, or otherwise producing  
25 any men's, women's, children's, or infants' apparel,

1 including clothing, knit goods, hats, gloves, hand-  
2 bags, hosiery, ties, scarves, and belts, or a section or  
3 component of apparel, except for pre-manufactured  
4 items such as buttons, zippers, snaps, and studs, de-  
5 signed or intended to be worn by any individual  
6 which is to be sold or offered for sale.

7 “(4) The term ‘retailer’ means any person en-  
8 gaged in the sale of apparel to the ultimate con-  
9 sumer for personal use.”.

10 (b) LIABILITY TO EMPLOYEES.—Section 16 (29  
11 U.S.C. 216) is amended—

12 (1) in subsection (b), by adding after the first  
13 sentence the following: “A manufacturer in the gar-  
14 ment industry (as defined in section 14A(b)(2)) shall  
15 also be jointly and severally liable to such an em-  
16 ployee to the same extent as the contractor in the  
17 garment industry (as defined in section 14A(b)(3))  
18 who employed such employee if the contractor vio-  
19 lated section 6 (other than subsection (d)) or 7 in  
20 the production of apparel or components of apparel  
21 for such manufacturer.”;

22 (2) in subsection (b), by inserting in the last  
23 sentence “or by a manufacturer in the garment in-  
24 dustry” after “by an employer”; and

25 (3) in subsection (c)—

## 5 SEC. 4. RECORDKEEPING.

6       Section 16(e) (29 U.S.C. 216(e)) is amended by add-  
7       ing after the first sentence the following: “Any person who  
8       fails to establish, maintain, and preserve payroll records  
9       as required under section 11(c) shall be subject to a civil  
10      penalty of not to exceed \$1000 for each employee who was  
11      the subject of such a violation. The Secretary may, in the  
12      Secretary’s discretion, compute civil penalties under this  
13      subsection for each pay period for willful violations. Any  
14      person who submits fraudulent payroll records to the  
15      agencies enforcing this Act in any of its investigations or  
16      hearings or as evidence in a court action, which records  
17      conceal the actual hours of labor worked by employees or  
18      the violation of section 6, 7, 11(d), or 12 shall be subject  
19      to a civil penalty of \$10,000 per act of fraud and \$15,000  
20      per act of fraud for a second offense.

## 21 SEC. 5. EFFECTIVE DATE.

22 The amendments made by this Act shall take effect  
23 upon the expiration of 30 days from the date of its enact-  
24 ment.

