

107TH CONGRESS
2^D SESSION

H. R. 4768

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

IN THE HOUSE OF REPRESENTATIVES

MAY 16, 2002

Ms. VELÁZQUEZ (for herself, Ms. SCHAKOWSKY, Mr. BROWN of Ohio, Mr. GEORGE MILLER of California, Mr. KILDEE, Mr. ENGEL, Ms. MCKINNEY, Ms. SOLIS, Mr. BRADY of Pennsylvania, Mr. BONIOR, Mr. LYNCH, and Ms. LEE) introduced the following bill; which was referred to the Committee on Education and the Workforce

A BILL

To amend the Fair Labor Standards Act of 1938 to provide access to information about 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.**

4 This Act may be cited as the “Garment Consumer’s
5 Right-to-Know Act of 2002”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds the following:

1 (1) The production of garments in sweatshops
2 that violate labor rights and standards burdens
3 interstate and international commerce and the free
4 flow of goods in commerce by spreading and perpet-
5 uating labor conditions that undermine minimum liv-
6 ing standards and by providing an unfair means of
7 competition to the detriment of employers who com-
8 ply with the law.

9 (2) The existence of domestic and foreign work-
10 ing conditions detrimental to fair competition and
11 the maintenance of minimum standards of living
12 necessary for health, efficiency, and general well-
13 being of domestic and foreign workers are a con-
14 tinuing and growing problem in the garment indus-
15 try.

16 (3) Many consumers of garments wish to know
17 whether the garments they purchase in interstate
18 and international commerce are made under working
19 conditions that the consumer deems morally repug-
20 nant, indecent, violative of workers' human dignity
21 and fundamental rights, or otherwise unacceptable.
22 The absence of reliable and available information
23 about such sweatshop conditions impairs consumers'
24 capacity to freely and knowingly choose whether to

1 purchase garments made in sweatshops and sold into
2 interstate and international commerce.

3 (4) The Congress concurs in the findings of the
4 Comptroller General that most sweatshop employers
5 violate the recordkeeping requirements of the Fair
6 Labor Standards Act of 1938 (29 U.S.C. 201 et
7 seq.).

8 (5) The failure of these employers to maintain
9 adequate records, as well as the lack of access to
10 such records by consumers, employees, consumer
11 and employee representatives, and the public at
12 large has adversely affected and continues to ad-
13 versely affect the ability of employees and the De-
14 partment of Labor to collect wages due to workers
15 and to otherwise ensure compliance with the Act's
16 wage and hour, child labor, and industrial homework
17 provisions.

18 (6) These failures of recordkeeping and lack of
19 access to records—combined with the inadequacy in
20 the scope of information that manufacturers have
21 been required to record and disclose—also obstruct
22 consumers from freely and knowingly choosing
23 whether to buy garments that are made under
24 sweatshop conditions.

1 “(A) The address of the headquarters,
2 principal places of business, and place of incor-
3 poration (or other legal registration) of the con-
4 tractor.

5 “(B) A full description of each production
6 order placed by the manufacturer with the con-
7 tractor, including descriptions of the items
8 manufactured or otherwise transformed by the
9 contractor, and of the attendant processes of
10 manufacturing and transformation, that are
11 sufficiently detailed to enable consumers, em-
12 ployees, consumer and employee representa-
13 tives, and the public to readily identify—

14 “(i) the type, brand, style, or other
15 identifying features of the particular final
16 retail product to which a production order
17 applies;

18 “(ii) for each process of manufac-
19 turing or transformation, the quantity of
20 items manufactured or transformed by
21 that process, the date of work performed,
22 and the location of the facility where work
23 was or is performed by employees of the
24 contractor fulfilling the production order;

1 “(iii) the class or type of employees
2 that performed each process of manufac-
3 turing or transformation;

4 “(iv) the age of each such employee;
5 and

6 “(v) for each such employee, the reg-
7 ular time and overtime hours worked (as
8 determined under section 13), the wages
9 and benefits paid, and the method of calcu-
10 lating any piece rates or incentive rates
11 paid.

12 “(C) The names and addresses of all per-
13 sons who are financially invested or interested,
14 whether as partners, associates, profit sharers,
15 shareholders, or through other forms of finan-
16 cial investment, in each contractor engaged by
17 the manufacturer, together with the proportion
18 or amount of their respective investments or in-
19 terests, except that in the case of a publicly
20 traded corporation a listing of principal officers
21 shall suffice.

22 “(D) All applicable labor laws.

23 “(E) Every charge, complaint, petition, or
24 other legal, administrative, or arbitral claim
25 submitted, filed, served, or in any other manner

1 brought by any party, and every action taken
2 by any public authority or private arbitrator
3 during the previous 5 years, pertaining to com-
4 pliance or noncompliance by the contractor with
5 the applicable labor laws.

6 “(b) Prior to, or concurrent with, an apparel manu-
7 facturer’s placement of a production order with a con-
8 tractor to manufacture apparel, the manufacturer shall
9 enter into a contract with the contractor that requires the
10 contractor to provide to the manufacturer, in a timely
11 manner, the records and information required under sub-
12 section (a).

13 “(c) An apparel manufacturer shall diligently enforce
14 any contract specified in section 11A(b), including initi-
15 ating legal action against the contractor in an appropriate
16 court.

17 “(d) An apparel manufacturer shall submit copies of
18 the records and contracts required under subsection (a)
19 and (b) to the Secretary, who shall make the information
20 contained in those records and contracts fully and freely
21 available to the public, through printed and online elec-
22 tronic databases that are readily searchable by name of
23 manufacturer or contractor, address of manufacturer or
24 contractor, date of production order, and description of
25 production order (as provided in subsection (a)(2)(B)).

1 “(e)(1)(A) Any employee of an apparel manufacturer
2 (or of a contractor engaged by such manufacturer), any
3 organization representing the interests of consumers in
4 the United States, and any labor organization rep-
5 resenting employees in the garment industry in the United
6 States or in the country in which the respective contractor
7 does business may bring an action against such manufac-
8 turer or contractor for violation of the manufacturer’s ob-
9 ligations under this section in an appropriate United
10 States district court.

11 “(B) A manufacturer or contractor found liable an
12 action under this paragraph shall be subject to an award
13 of compensatory, consequential, and punitive damages, as
14 well as equitable relief. Any such damages shall be award-
15 ed to, and apportioned among, the employees of the con-
16 tractor as to which the manufacturer has failed to main-
17 tain information required under subsection (a) or has
18 failed to enter into or enforce contracts as required under
19 subsection (b).

20 “(C) Plaintiffs in such actions shall be entitled to a
21 trial by jury and to attorney fees and costs in the same
22 manner as provided in section 16(b).

23 “(2) The compliance of an apparel manufacturer with
24 this section, with respect to the information and records
25 employees and homeworkers of each contractor engaged

1 by the manufacturer and the contract and enforcement re-
2 quirements of subsections (b) and (c), may be enforced
3 in the same manner as records and information the manu-
4 facturer is required to make, keep, and preserve with re-
5 spect to an employer's employees and homeworkers under
6 section 11(a).

7 “(f) For purposes of this section:

8 “(1)(A) The term ‘apparel’ means a garment
9 (or a section or component of such garment) de-
10 signed or intended to be worn by men, women, chil-
11 dren, or infants and to be sold or offered for sale.

12 “(B) Such term includes clothing, knit goods,
13 hats, gloves, handbags, hosiery, ties, scarves, and
14 belts.

15 “(C) Such term does not include
16 premanufactured items, such as buttons, zippers,
17 snaps, or studs.

18 “(2) The term ‘manufacture’, with respect to
19 apparel, means to design, cut, sew, dye, wash, finish,
20 assemble, press, or otherwise produce.

21 “(3)(A) The term ‘apparel manufacturer’
22 means any person, in or affecting interstate or for-
23 eign commerce, that—

24 “(i) manufactures apparel or engages in
25 the business of selling apparel; or

1 “(ii) engages a contractor to manufacture
2 apparel.

3 “(B) Such term does not include a contractor.

4 “(4) The term ‘contractor’ means—

5 “(A) any person who contracts, directly or
6 indirectly, with an apparel manufacturer to
7 manufacture apparel (including any subcon-
8 tractor of such person) for such manufacturer;
9 and

10 “(B) any agent, distributor, or person de-
11 scribed in subparagraph (A) through which
12 homework is distributed or collected by such an
13 agent, distributor, or contractor engaged by an
14 apparel manufacturer.

15 “(5) The term ‘applicable labor laws’ means the
16 Federal, State, or international laws or regulations
17 to which an apparel manufacturer or contractor is
18 subject in the area of labor and employment, includ-
19 ing wages and hours, child labor, safety and health,
20 discrimination, freedom of association and collective
21 bargaining, work-related benefits and leaves, and
22 any other workplace condition or aspect of the em-
23 ployment relationship.

24 “(6) The term ‘appropriate court’ means, with
25 respect to an apparel manufacturer or contractor—

1 “(A) an appropriate United States district
2 court;

3 “(B) a court of any State having jurisdic-
4 tion over the manufacturer or contractor; or

5 “(C) a foreign court or tribunal having ju-
6 risdiction over the manufacturer or con-
7 tractor.”.

8 **SEC. 4. CIVIL PENALTIES FOR VIOLATIONS OF RECORD-**
9 **KEEPING.**

10 Section 16(e) of the Fair Labor Standards Act of
11 1938 (29 U.S.C. 216(e)) is amended by adding after the
12 first sentence the following: “Any person who fails to
13 maintain or submit information, records, and contracts as
14 required under section 11(e) and section 11A shall be sub-
15 ject to a civil penalty of \$5,000 for each employee to whom
16 such records pertain, except that a person who willfully
17 commits such a failure shall be liable for such civil penalty
18 for each pay period in which the failure occurs. In addition
19 to any other penalties provided by law, any person who
20 submits fraudulent information, records, or contracts
21 under section 11A shall be subject to a civil penalty of
22 \$10,000 for the first such fraudulent act and \$15,000 for
23 each such subsequent fraudulent act.”.

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