114TH CONGRESS  1ST Session  
H. R. 3226

To amend the Securities Exchange Act of 1934 to require certain companies to disclose information describing any measures the company has taken to identify and address conditions of forced labor, slavery, human trafficking, and the worst forms of child labor within the company’s supply chains.

______________________________________________________________

IN THE HOUSE OF REPRESENTATIVES

JULY 27, 2015

Mrs. CAROLYN B. MALONEY of New York (for herself and Mr. SMITH of New Jersey) introduced the following bill; which was referred to the Committee on Financial Services

______________________________________________________________

A BILL

To amend the Securities Exchange Act of 1934 to require certain companies to disclose information describing any measures the company has taken to identify and address conditions of forced labor, slavery, human trafficking, and the worst forms of child labor within the company’s supply chains.

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 “Business Supply Chain
5    Transparency on Trafficking and Slavery Act of 2015”.


SEC. 2. FINDINGS AND SENSE OF CONGRESS.

(a) FINDINGS.—Congress finds the following:

(1) In 2014, the Department of Labor identified 136 goods from 74 countries around the world made by forced labor and child labor.

(2) The United States is the world’s largest importer, and in the 21st century, investors, consumers, and broader civil society increasingly demand information about the human rights impact of products in the United States market.

(3) Courts have ruled that consumers do not have standing to bring a civil action in United States courts for enforcement of a provision in the Smoot Hawley Tariff Act of 1930 prohibiting importation of goods made with forced labor or convict labor, and furthermore, the provision has a broad exception for goods that cannot be produced in the United States in sufficient quantities to meet the demands of American consumers from tainted goods, consequently, there are fewer than 40 enforcement actions on record in the past 80 years.

(4) Mechanisms under Federal law to prevent and punish perpetrators of forced labor, slavery, human trafficking, and the worst forms of child labor in the stream of commerce suffer from problems of limited scope, broad expectations, and lack
of available information about goods that are produced along supply chains tainted by these crimes and imported by the United States.

(5) The Trafficking Victims Protection Reauthorization Act of 2003 (Public Law 108–193) together with the Trafficking Victims Protection Act of 2005 (Public Law 109–164) provide for the termination of Federal contracts where a Federal contractor or subcontractor engages in severe forms of trafficking in persons or has procured a commercial sex act during the period of time that the grant, contract, or cooperative agreement is in effect, or uses forced labor in the performance of the grant, contract, or cooperative agreement. The Trafficking Victims Protection Act of 2005 also provides United States courts with criminal jurisdiction abroad over Federal employees, contractors, or subcontractors who participate in severe forms of trafficking in persons or forced labor.

(6) Executive Order 13126, Prohibition of Acquisition of Products Produced by Forced or Indentured Child Labor, Executive Order 13627, Strengthening Protections Against Trafficking In Persons In Federal Contracts, and title XVII of the National Defense Authorization Act for Fiscal Year
2013 (Public Law 112–239) have prohibited Federal contractors, subcontractors, and their employees from engaging in the following trafficking-related activities: charging labor recruitment fees; confiscating passports and other identity documents of workers; and using fraudulent recruitment practices, including failing to disclose basic information or making material misrepresentations about the terms and conditions of employment. Such Executive order and Acts also require Federal contractors, subcontractors, and their employees to maintain an anti-trafficking compliance plan that includes, among other elements, a complaint mechanism and procedures to prevent subcontractors at any tier in the supply chain from engaging in trafficking in persons.

(b) Sense of Congress.—It is the sense of Congress that—

(1) forced labor, slavery, human trafficking, and the worst forms of child labor are among the most egregious forms of abuse that humans commit against each other, for the sake of commercial profit;

(2) the legislative and regulatory framework to prevent goods produced by forced labor, slavery, human trafficking, and the worst forms of child
labor from passing into the stream of commerce in
the United States is gravely inadequate;

    (3) legislation is necessary to provide consumers
information on products that are free of child labor,
forced labor, slavery, and human trafficking; and

    (4) through publicly available disclosures, busi-
nesses and consumers can avoid inadvertently pro-
moting or sanctioning these crimes through produc-
tion and purchase of raw materials, goods and fin-
ished products that have been tainted in the supply
chains.

SEC. 3. DISCLOSURE OF INFORMATION RELATING TO EF-
FORTS TO COMBAT THE USE OF FORCED
LABOR, SLAVERY, TRAFFICKING IN PERSONS,
OR THE WORST FORMS OF CHILD LABOR.

Section 13 of the Securities Exchange Act of 1934
(15 U.S.C. 78m) is amended by adding at the end the
following new subsection:

    ‘‘(s) Disclosures Relating to Efforts To Com-
bat the Use of Forced Labor, Slavery, Trac-
ficking in Persons, or the Worst Forms of Child
Labor.—

    ‘‘(1) Regulations.—Not later than 1 year
after the date of enactment of the Business Supply
Chain Transparency on Trafficking and Slavery Act
of 2015, the Commission, in consultation with the Secretary of State, shall promulgate regulations to require that any covered issuer required to file reports with the Commission under this section to include annually in such reports, a disclosure whether the covered issuer has taken any measures during the year for which such reporting is required to identify and address conditions of forced labor, slavery, human trafficking, and the worst forms of child labor within the covered issuer’s supply chain, and a description of such measures taken. Such disclosure shall include, under the heading ‘Policies to Address Forced Labor, Slavery, Human Trafficking, and the Worst Forms of Child Labor’, information describing to what extent, if any, the covered issuer conducts any of the following activities:

“(A) Whether the covered issuer maintains a policy to identify and eliminate the risks of forced labor, slavery, human trafficking, and the worst forms of child labor within the covered issuer’s supply chain (such disclosure to include the text of the policy or substantive description of the elements of the policy), and actions the covered issuer has taken pursuant to or in the absence of such policy.
“(B) Whether the covered issuer maintains a policy prohibiting its employees and employees of entities associated with its supply chain from engaging in commercial sex acts with a minor.

“(C) The efforts of the covered issuer to evaluate and address the risks of forced labor, slavery, human trafficking, and the worst forms of child labor in the product supply chain. If such efforts have been made, such disclosure shall—

“(i) describe any risks identified within the supply chain, and the measures taken toward eliminating those risks;

“(ii) specify whether the evaluation was or was not conducted by a third party;

“(iii) specify whether the process includes consultation with the independent labor organizations (as such term is defined in section 2 of the National Labor Relations Act (29 U.S.C. 152)), workers’ associations, or workers within workplaces and incorporates the resulting input or written comments from such independent labor organizations, workers’ associations,
or workers and if so, the disclosure shall describe the entities consulted and specify the method of such consultation; and

“(iv) specify the extent to which the process covers entities within the supply chain, including entities upstream in the product supply chain and entities across lines of products or services throughout the covered issuer’s product manufacturing.

“(D) The efforts of the covered issuer to ensure that audits of suppliers within the supply chain of the covered issuer are conducted to—

“(i) investigate the working conditions and labor practices of such suppliers;

“(ii) verify whether such suppliers have in place appropriate systems to identify risks of forced labor, slavery, human trafficking, and the worst forms of child labor within their own supply chain; and

“(iii) evaluate whether such systems are in compliance with the policies of the covered issuer or efforts in absence of such policies.

“(E) The efforts of the covered issuer to—
“(i) require suppliers in the supply chain to attest that the manufacture of materials incorporated into any product and the recruitment of labor are carried out in compliance with the laws regarding forced labor, slavery, human trafficking, and the worst forms of child labor;

“(ii) maintain internal accountability standards, supply chain management, and procurement systems, and reporting procedures for employees, suppliers, contractors, or other entities within its supply chain failing to meet the covered issuer’s standards regarding forced labor, slavery, human trafficking, and the worst forms of child labor, including a description of such standards, systems, and procedures;

“(iii) train the employees and management who have direct responsibility for supply chain management on issues related to forced labor, slavery, human trafficking, and the worst forms of child labor, particularly with respect to mitigating risks within the supply chains of products; and
“(iv) ensure that labor recruitment practices at all suppliers associated with the supply chain comply with the covered issuer’s policies or efforts in absence of such policies for eliminating exploitive labor practices that contribute to forced labor, slavery, human trafficking, and the worst forms of child labor, including by complying with audits of labor recruiters and disclosing the results of such audits.

“(F) The efforts of the covered issuer in cases where forced labor, slavery, human trafficking, and the worst forms of child labor have been identified within the supply chain, to ensure that remedial action is provided to those who have identified as victims, including support for programs designed to prevent the recurrence of those events within the industry or sector in which they have been identified.

“(2) Requirements for availability of information.—

“(A) Disclosure on company website.—The regulations promulgated under paragraph (1) shall require that the required information be disclosed by the covered issuer
on the Internet website of the covered issuer through a conspicuous and easily understand-able link to the relevant information that shall be labeled ‘Global Supply Chain Transparency’.

“(B) Disclosure on Commission website.—The Commission shall make available to the public in a searchable format on the Commission’s website—

“(i) a list of covered issuers required to disclose any measures taken by the company to identify and address conditions of forced labor, slavery, human trafficking, and the worst forms of child labor within the covered issuer’s supply chain, as re-quired by this subsection; and

“(ii) a compilation of the information submitted under the rules issued under paragraph (1)."

“(3) Definitions.—As used in this sub-section—

“(A) the term ‘covered issuer’ means an issuer that has annual worldwide global receipts in excess of $100,000,000;

“(B) the terms ‘forced labor’, ‘slavery’, and ‘human trafficking’ mean any labor practice or
human trafficking activity in violation of national and international standards, including International Labor Organization Convention No. 182, the Trafficking Victims Protection Act of 2000 (Public Law 106–386), and acts that would violate the criminal provisions related to slavery and human trafficking under chapter 77 of title 18, United States Code, if they had been committed within the jurisdiction of the United States;

“(C) the term ‘remedial action’ means the activities or systems that an issuer puts in place to address non-compliance identified through monitoring or verification, and may apply to individuals adversely affected by the non-compliant conduct or address broader systematic processes;

“(D) the term ‘supply chain’, with respect to a covered issuer disclosing the information required under the regulations promulgated under this section, means all labor recruiters, suppliers of products, component parts of products, and raw materials used by such entity in the manufacturing of such entity’s products
whether or not such entity has a direct relationship with the supplier; and

“(E) the term ‘the worst forms of child labor’ means child labor in violation of national and international standards, including International Labor Organization Convention No. 182.”