

112TH CONGRESS
1ST SESSION

H. R. 2759

To require companies to include in their annual reports to the Securities and Exchange Commission a disclosure describing any measures the company has taken during the year 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

AUGUST 1, 2011

Mrs. MALONEY (for herself, Mr. SMITH of New Jersey, Ms. SPEIER, and Mr. MCGOVERN) introduced the following bill; which was referred to the Committee on Financial Services

A BILL

To require companies to include in their annual reports to the Securities and Exchange Commission a disclosure describing any measures the company has taken during the year 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, ETC.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Business Transparency on Trafficking and Slavery Act”.

1 (b) FINDINGS.—Congress finds that—

2 (1) in 2010, the Department of Labor identified
3 128 goods from 70 countries around the world made
4 by forced labor and child labor;

5 (2) the United States is the world’s largest im-
6 porter, and in the twenty-first century, investors,
7 consumers, and broader civil society increasingly de-
8 mand information about the human rights impact of
9 products in the United States market;

10 (3) in 2010, California enacted the first State
11 law requiring manufacturers and retail companies to
12 publicly disclose their policies to eradicate slavery,
13 forced labor, and human trafficking within their
14 supply chains;

15 (4) the Smoot-Hawley Tariff Act of 1930,
16 which prohibits importation of goods made with
17 forced labor or convict labor, has a broad exception
18 for goods that cannot be produced in the United
19 States in sufficient quantities to meet the demands
20 of American consumers;

21 (5) courts have also ruled that consumers do
22 not have standing to bring a civil action in United
23 States courts for enforcement of this provision of the
24 Tariff Act, because the legislative intent was to pro-
25 tect American manufacturers from unfairly priced

1 goods, not to protect consumers from tainted goods,
2 consequently, there are fewer than 40 enforcement
3 actions on record in the past 80 years; and

4 (6) other mechanisms related to slavery and
5 trafficking in the stream of commerce suffer from
6 similar problems of limited scope, broad exceptions,
7 and inability to provide information about specific
8 suppliers whose goods are tainted.

9 (c) SENSE OF CONGRESS.—It is the sense of Con-
10 gress that—

11 (1) forced labor, slavery, human trafficking and
12 the worst forms of child labor are among the most
13 egregious forms of abuse that humans commit
14 against each other, in the name of commercial prof-
15 it;

16 (2) the legislative and regulatory framework to
17 prevent goods produced through forced labor, slav-
18 ery, human trafficking, and the worst forms of child
19 labor from passing into the stream of commerce in
20 the United States is gravely inadequate; and

21 (3) legislation is necessary to provide the infor-
22 mation that the public demands, recognizing that
23 businesses can be part of the solution to these prob-
24 lems when they transparently provide information to
25 consumers and investors, and subsequently respond

1 to consumer and investor demands for business rea-
2 sons, rather than solely reacting to governmental
3 prescriptions on how to conduct their business.

4 **SEC. 2. DISCLOSURE TO SEC RELATING TO SLAVERY CON-**
5 **DITIONS WITHIN PRODUCT SUPPLY CHAINS.**

6 Section 13 of the Securities Exchange Act of 1934
7 (15 U.S.C. 78m), is amended by adding at the end the
8 following new subsection:

9 “(r) DISCLOSURES RELATING TO SLAVERY CONDI-
10 TIONS WITHIN PRODUCT SUPPLY CHAINS.—

11 “(1) REGULATIONS.—Not later than 270 days
12 after the date of the enactment of this subsection,
13 the Commission shall promulgate regulations requir-
14 ing any person required to file reports with the Com-
15 mission under this section to include annually in
16 such reports, beginning with the person’s first full
17 fiscal year that begins after the date of promulga-
18 tion of such regulations, a disclosure of any meas-
19 ures such person has taken during the year for
20 which such reporting is required to identify and ad-
21 dress conditions of forced labor, slavery, human traf-
22 ficking, and the worst forms of child labor within
23 such person’s supply chains. Such disclosure shall
24 include the following information under the heading
25 ‘Policies to Address Forced Labor, Slavery, Human

1 Trafficking and the Worst Forms of Child Labor’
2 describing to what extent, if any, the person con-
3 ducts any of the following activities:

4 “(A) Maintains a policy to identify and
5 eliminate risks of forced labor, slavery, human
6 trafficking, and the worst forms of child labor
7 within its supply chain. If the person maintains
8 such a policy, the disclosure shall include the
9 text of the policy or a substantive description of
10 the elements of the policy.

11 “(B) Maintains a policy prohibiting the use
12 of the person’s corporate products, facilities, or
13 services to obtain or maintain someone under
14 conditions of forced labor, slavery, human traf-
15 ficking, and the worst forms of child labor.

16 “(C) Engages in verification of product
17 supply chains to evaluate and address risks of
18 forced labor, slavery, human trafficking and the
19 worst forms of child labor. The disclosure
20 shall—

21 “(i) describe the greatest risks identi-
22 fied within the supply chain, and the meas-
23 ures taken toward eliminating those risks;

1 “(ii) specify whether the verification
2 was or was not conducted by a third party;
3 and

4 “(iii) specify whether the verification
5 process includes consultations with inde-
6 pendent unions, workers’ associations, or
7 workers within workplaces and incor-
8 porates the resulting certification or writ-
9 ten comments from such independent
10 union, workers’ associations, or workers.

11 “(D) Ensures that audits of suppliers are
12 conducted to evaluate supplier compliance with
13 the person’s company standards for eliminating
14 forced labor, slavery, human trafficking, and
15 the worst forms of child labor in supply chains.
16 The disclosure shall specify if the verification
17 was not an independent, unannounced audit.

18 “(E) Assesses supply chain management
19 and procurement systems of suppliers in the
20 person’s supply chain, to verify whether said
21 suppliers have in place appropriate systems to
22 identify risks of forced labor, slavery, human
23 trafficking, and the worst forms of child labor
24 within their own supply chain.

1 “(F) Requires suppliers in its supply chain
2 to certify that materials incorporated into the
3 product comply with the laws regarding forced
4 labor, slavery, human trafficking, and the worst
5 forms of child labor of the country or countries
6 in which they are doing business.

7 “(G) Maintains internal accountability
8 standards, supply chain management and pro-
9 curement systems, and procedures for employ-
10 ees or contractors failing to meet the person’s
11 company standards regarding forced labor, slav-
12 ery, human trafficking, and the worst forms of
13 child labor. The report shall describe such
14 standards and systems.

15 “(H) Provides the person’s employees and
16 management who have direct responsibility for
17 supply chain management, training on forced
18 labor, slavery, human trafficking and the worst
19 forms of child labor, particularly with respect to
20 mitigating risks within the supply chains of
21 products.

22 “(I) Ensures that recruitment practices at
23 all suppliers comply with the person’s company
24 standards for eliminating exploitive labor prac-
25 tices that contribute to forced labor, slavery,

1 human trafficking, and the worst forms of child
2 labor, including by conducting audits of labor
3 recruiters and disclosing the results of such au-
4 dits.

5 “(J) In cases where forced labor, slavery,
6 human trafficking, and the worst forms of child
7 labor have been identified within the supply
8 chain, ensures that remediation is provided to
9 those who have been identified as victims.

10 “(2) INTERACTIVE DATA FORMAT.—The rules
11 issued under paragraph (1) shall require that the in-
12 formation included in the person’s annual report be
13 submitted in electronic form in an interactive data
14 format.

15 “(3) PUBLIC AVAILABILITY OF INFORMATION.—
16 To the extent practicable, the Commission shall
17 make available to the public in a searchable format
18 on a website, a compilation of the information re-
19 quired to be submitted under the rules issued under
20 paragraph (1).

21 “(4) PUBLICATION ON THE COMPANY’S
22 WEBSITE.—Any person filing the disclosure required
23 by paragraph (1) shall make available such disclo-
24 sure on the person’s Internet website with a con-
25 spicuous and easily understood link to the relevant

1 information placed on the homepage of the website.
2 The link on the homepage shall be labeled “Policies
3 to Address Forced Labor, Slavery, Human Traf-
4 ficking and the Worst Forms of Child Labor.” In
5 the event the person does not have an Internet
6 website, the person shall provide the written disclo-
7 sure within 30 days after receiving a written request
8 for the disclosure from an investor or consumer.

9 “(5) DEFINITIONS.—For purposes of this sub-
10 section—

11 “(A) the term “forced labor, slavery,
12 human trafficking and the worst forms of child
13 labor” means child labor in violation of inter-
14 national standards including International
15 Labor Organization Convention No. 182 and
16 acts that would violate the criminal provisions
17 related to slavery and human trafficking under
18 chapter 77 of title 18 if they had been com-
19 mitted within the jurisdiction of the United
20 States;

21 “(B) the term ‘person’ means any publicly-
22 traded or private entity required to submit any
23 annual report to the Commission, and having
24 annual worldwide global receipts in excess of
25 \$100,000,000;

1 “(C) the term ‘remediation’ means the ac-
2 tivities or systems that a company puts in place
3 to address non-compliance with the standards
4 identified through monitoring or verification,
5 which may apply to individuals adversely af-
6 fected by the non-compliant conduct or address
7 broader systematic processes;

8 “(D) the term ‘supply chain’, with respect
9 to a person filing the disclosure required by
10 paragraph (1), means all suppliers of products,
11 component parts of products, and raw materials
12 used by such person in the manufacturing of
13 such person’s products or the provision of such
14 person’s services, whether or not such person
15 has a direct relationship with the supplier; and

16 “(E) the term ‘verification’ means the
17 process by which a company is evaluated to de-
18 termine compliance with its documented pro-
19 gram, including standards on forced labor, slav-
20 ery, human trafficking, and the worst forms of
21 child labor, including an evaluation of—

22 “(i) data gathered through monitoring
23 activities to ensure results are reliable and
24 process is credible; and

1 “(ii) the system established to reme-
2 diate violations to determine if remediation
3 is implemented and effective.”.

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