

117TH CONGRESS
2D SESSION

S. 3578

To require certain businesses to disclose the use of forced labor in their direct supply chain, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 3, 2022

Mr. HAWLEY (for himself and Mrs. GILLIBRAND) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To require certain businesses to disclose the use of forced labor in their direct supply chain, 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 “Slave-Free Business
5 Certification Act of 2022”.

6 **SEC. 2. REQUIRED REPORTING ON USE OF FORCED LABOR**
7 **FROM COVERED BUSINESS ENTITIES.**

8 (a) DEFINITIONS.—In this Act:

9 (1) COVERED BUSINESS ENTITY.—The term
10 “covered business entity” means any issuer, as that

1 term is defined in section 2(a) of the Securities Act
2 of 1933 (15 U.S.C. 77b(a)), that—

3 (A) has annual, worldwide gross receipts
4 that exceed \$500,000,000; and

5 (B) is involved in the mining, production,
6 or manufacture of goods for sale.

7 (2) FORCED LABOR.—The term “forced labor”
8 means any labor practice or human trafficking activ-
9 ity in violation of national and international stand-
10 ards, including—

11 (A) International Labor Organization Con-
12 vention No. 182;

13 (B) the Trafficking Victims Protection Act
14 of 2000 (22 U.S.C. 7101 et seq.); and

15 (C) any act that would violate the criminal
16 provisions related to slavery and human traf-
17 ficking under chapter 77 of title 18, United
18 States Code, if the act had been committed
19 within the jurisdiction of the United States.

20 (3) GROSS RECEIPTS.—The term “gross re-
21 cepts” has the meaning given to the term in section
22 993(f) of the Internal Revenue Code of 1986.

23 (4) ON-SITE SERVICE.—The term “on-site serv-
24 ice” means any service work provided on the site of

1 a covered business entity, including food service
2 work and catering services.

3 (5) ON-SITE SERVICE PROVIDER.—The term
4 “on-site service provider” means any entity that pro-
5 vides workers who perform, collectively, a total of
6 not less than 30 hours per week of on-site services
7 for a covered business entity.

8 (6) SECRETARY.—The term “Secretary” means
9 the Secretary of Labor.

10 (7) SUPPLY CHAIN.—The term “supply chain”
11 means the end-to-end process for producing and
12 transporting goods beginning at the point of origin
13 through a point of distribution to the destination, in-
14 clusive of suppliers, manufacturers, and vendors.

15 (b) AUDIT AND REPORTING REQUIREMENTS.—

16 (1) IN GENERAL.—Not later than 1 year after
17 the date of enactment of this Act, and every year
18 thereafter, each covered business entity shall—

19 (A) conduct an audit of its supply chain,
20 pursuant to the requirements of section 3, to
21 investigate the presence or use of forced labor
22 by the covered business entity or its suppliers,
23 including by direct suppliers, secondary sup-
24 pliers, and on-site service providers of the cov-
25 ered business entity;

1 (B) submit a report to the Secretary con-
 2 taining the information described in paragraph
 3 (2) on the results of such audit and efforts of
 4 the covered business entity to eradicate forced
 5 labor from the supply chain and on-site services
 6 of the covered business entity; and

7 (C)(i) publish the report described in sub-
 8 paragraph (B) on the public website of the cov-
 9 ered business entity, and provide a conspicuous
 10 and easily understood link on the homepage of
 11 the website that leads to the report; or

12 (ii) in the case of a covered business entity
 13 that does not have a public website, provide the
 14 report in written form to any consumer of the
 15 covered business entity not later than 30 days
 16 after the consumer submits a request for the
 17 report.

18 (2) REQUIRED REPORT CONTENTS.—Each re-
 19 port required under paragraph (1)(B) shall contain,
 20 at a minimum—

21 (A) a disclosure of the covered business en-
 22 tity's policies to prevent the use of forced labor
 23 by the covered business entity, its direct sup-
 24 pliers, and its on-site service providers;

1 (B) a disclosure of what policies or proce-
2 dures, if any, the covered business entity uses—

3 (i) for the verification of product sup-
4 ply chains and on-site service provider
5 practices to evaluate and address risks of
6 forced labor and whether the verification
7 was conducted by a third party;

8 (ii) to require direct suppliers and on-
9 site service providers to provide written
10 certification that materials incorporated
11 into the product supplied or on-site serv-
12 ices, respectively, comply with the laws re-
13 garding forced labor of each country in
14 which the supplier or on-site service pro-
15 vider is engaged in business;

16 (iii) to maintain internal account-
17 ability standards and procedures for em-
18 ployees or contractors of the covered busi-
19 ness entity failing to meet requirements re-
20 garding forced labor; and

21 (iv) to provide training on recognizing
22 and preventing forced labor, particularly
23 with respect to mitigating risks within the
24 supply chains of products and on-site serv-
25 ices of the covered business entity, to em-

1 employees, including management personnel,
2 of the covered business entity who have di-
3 rect responsibility for supply chain man-
4 agement or on-site services;

5 (C) a description of the findings of each
6 audit required under paragraph (1)(A), includ-
7 ing the details of any instances of found or sus-
8 pected forced labor; and

9 (D) a written certification, signed by the
10 chief executive officer of the covered business
11 entity, that—

12 (i) the covered business entity has
13 complied with the requirements of this Act
14 and exercised due diligence in order to
15 eradicate forced labor from the supply
16 chain and on-site services of the covered
17 business entity;

18 (ii) to the best of the chief executive
19 officer's knowledge, the covered business
20 entity has found no instances of the use of
21 forced labor by the covered business entity
22 or has disclosed every known instance of
23 the use of forced labor; and

24 (iii) the chief executive officer and any
25 other officers submitting the report or cer-

1 tification understand that section 1001 of
 2 title 18, United States Code (popularly
 3 known as the “False Statements Act”),
 4 applies to the information contained in the
 5 report submitted to the Secretary.

6 (c) REPORT OF VIOLATIONS TO CONGRESS.—Each
 7 year, the Secretary shall prepare and submit a report to
 8 Congress regarding the covered business entities that—

9 (1) have failed to conduct audits required under
 10 this Act for the preceding year or have been adju-
 11 dicated in violation of any other provision of this
 12 Act; or

13 (2) have been found to have used forced labor,
 14 including the use of forced labor in their supply
 15 chain or by their on-site service providers.

16 **SEC. 3. AUDIT REQUIREMENTS.**

17 (a) IN GENERAL.—Each audit conducted under sec-
 18 tion 2(b)(1)(A) shall meet the following requirements:

19 (1) WORKER INTERVIEWS.—The auditor
 20 shall—

21 (A) select a cross-section of workers to
 22 interview that represents the full diversity of
 23 the workplace, and includes, if applicable, men
 24 and women, migrant workers and local workers,
 25 workers on different shifts, workers performing

1 different tasks, and members of various produc-
2 tion teams;

3 (B) if individuals under the age of 18 are
4 employed at the facility of the direct supplier or
5 on-site service provider, interview a representa-
6 tive group using age-sensitive interview tech-
7 niques;

8 (C) conduct interviews—

9 (i) off-site of the facility and during
10 non-work hours for the worker;

11 (ii) individually or in groups (except
12 for purposes of subparagraph (B)); and

13 (iii) using methods of communication
14 that limit, to the greatest practicable ex-
15 tent, any reliance on devices or services
16 provided to the worker by the covered busi-
17 ness entity, supplier, or on-site service pro-
18 vider;

19 (D) use audit tools to ensure that each
20 worker is asked a comprehensive set of ques-
21 tions;

22 (E) collect from interviewed workers copies
23 of the workers' pay stubs, in order to compare
24 the pay stubs with payment records provided by
25 the direct supplier;

1 (F) ensure that all worker responses are
2 confidential and are never shared with manage-
3 ment; and

4 (G) interview a representative of the labor
5 organization or other worker representative or-
6 ganization that represents workers at the facil-
7 ity or, if no such organization is present, at-
8 tempt to interview a representative from a local
9 worker advocacy group.

10 (2) MANAGEMENT INTERVIEWS.—The auditor
11 shall—

12 (A) interview a cross-section of the man-
13 agement of the supplier, including human re-
14 sources personnel, production supervisors, and
15 others; and

16 (B) use audit tools to ensure that man-
17 agers are asked a comprehensive set of ques-
18 tions.

19 (3) REQUIRED INFORMATION.—The auditor
20 shall—

21 (A) conduct a thorough review of informa-
22 tion regarding the supplier or on-site service
23 provider to provide tangible proof of compliance
24 and to corroborate or find discrepancies in the

1 information gathered through the worker and
2 management interviews; and

3 (B) review, at a minimum, the following
4 information related to the supplier or on-site
5 service provider:

6 (i) Age verification procedures and
7 documents.

8 (ii) A master list of juvenile workers
9 or information related to juvenile workers.

10 (iii) Selection and recruitment proce-
11 dures.

12 (iv) Contracts with labor brokers, if
13 any.

14 (v) Worker contracts and employment
15 agreements.

16 (vi) Introduction program materials.

17 (vii) Personnel files.

18 (viii) Employee communication and
19 training plans, including certifications pro-
20 vided to workers including skills training,
21 worker preparedness, government certifi-
22 cation programs, and systems or policy ori-
23 entations.

24 (ix) Collective bargaining agreements,
25 including collective bargaining representa-

1 tive certification, descriptions of the role of
2 the labor organization, and minutes of the
3 labor organization's meetings.

4 (x) Contracts with any security agen-
5 cy, and descriptions of the scope of respon-
6 sibilities of the security agency.

7 (xi) Payroll and time records.

8 (xii) Production capacity reports.

9 (xiii) Written human resources poli-
10 cies and procedures.

11 (xiv) Occupational health and safety
12 plans and records including legal permits,
13 maintenance and monitoring records, in-
14 jury and accident reports, investigation
15 procedures, chemical inventories, personal
16 protective equipment inventories, training
17 certificates, and evacuation plans.

18 (xv) Disciplinary notices.

19 (xvi) Grievance reports.

20 (xvii) Performance evaluations.

21 (xviii) Promotion or merit increase
22 records.

23 (xix) Dismissal and suspension
24 records of workers.

1 (xx) Records of employees who have
2 resigned.

3 (xxi) Worker pay stubs.

4 (4) CLOSING MEETING WITH MANAGEMENT.—

5 The auditor shall hold a closing meeting with the
6 management of the covered business entity to—

7 (A) report violations and nonconformities
8 found in the facility; and

9 (B) determine the steps forward to address
10 and remediate any problems.

11 (5) REPORT PREPARATION.—The auditor shall
12 prepare a full report of the audit, which shall in-
13 clude—

14 (A) a disclosure of the direct supplier's or
15 on-site service provider's—

16 (i) documented processes and proce-
17 dures that relate to eradicating forced
18 labor; and

19 (ii) documented risk assessment and
20 prioritization policies as such policies relate
21 to eradicating forced labor;

22 (B) a description of the worker interviews,
23 manager interviews, and documentation review
24 required under paragraphs (1), (2), and (3);

(C) a description of all violations or suspected violations by the direct supplier or on-site service provider of any forced labor laws of the United States or, if applicable, the laws of another country as described in section 2(b)(2)(B)(ii); and

(D) for each violation described in subparagraph (C), a description of any corrective and protective actions recommended for the direct supplier consisting of, at a minimum—

(i) the issues relating to the violation and any root causes of the violation;

(ii) the implementation of a solution; and

(iii) a method to check the effectiveness of the solution.

(b) ADDITIONAL REQUIREMENTS RELATING TO AUDITS.—

(1) NO RETALIATION FOR AUDIT COOPERATION.—A covered business entity or supplier, including a direct supplier, secondary supplier, or on-site service provider, shall not retaliate against any worker for participating in interviews under section 3(a)(1) or providing information necessary for the

1 audit requirements under section 3(a)(3)(B) to the
2 auditor.

3 (2) CONTRACT REQUIREMENTS.—Each covered
4 business entity shall include, in any contract with a
5 direct supplier or on-site service provider, a require-
6 ment that—

7 (A) the supplier or provider shall not re-
8 taliat e against any worker for participating in
9 an audit relating to forced labor; and

10 (B) worker participation in an audit shall
11 be protected through the same grievance mech-
12 anisms available to the worker available for any
13 other type of workplace grievance.

14 **SEC. 4. ENFORCEMENT.**

15 (a) CIVIL DAMAGES.—The Secretary may assess civil
16 damages in an amount of not more than \$100,000,000
17 if, after notice and an opportunity for a hearing, the Sec-
18 retary determines that a covered business entity has vio-
19 lated any requirement of section 2(b).

20 (b) PUNITIVE DAMAGES.—In addition to damages
21 under subsection (a), the Secretary may assess punitive
22 damages in an amount of not more than \$500,000,000
23 against an entity that is a covered business entity or sup-
24 plier, including a direct supplier, secondary supplier, or

1 on-site service provider, if, after notice and an opportunity
2 for a hearing, the Secretary determines the entity—

3 (1) willfully violated any requirement of section
4 2(b); or

5 (2) willfully violated section 3(b)(1).

6 (c) DECLARATIVE OR INJUNCTIVE RELIEF.—The
7 Secretary may request the Attorney General institute a
8 civil action for relief, including a permanent or temporary
9 injunction, restraining order, or any other appropriate
10 order, in the district court of the United States for any
11 district in which the covered business entity conducts busi-
12 ness, whenever the Secretary believes that a violation of
13 section 2(b) constitutes a hazard to workers.

14 **SEC. 5. REGULATIONS.**

15 Not later than 180 days after the date of enactment
16 of this Act, the Secretary shall promulgate rules to carry
17 out this Act.

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