

105TH CONGRESS
1ST SESSION

H. R. 23

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.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 7, 1997

Mr. CLAY 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 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 of 1997”.

6 (b) REFERENCE.—Whenever in this Act an amend-
7 ment or repeal is expressed in terms of an amendment
8 to, or repeal of, a section or other provision, the reference

1 shall be considered to be made to a section or other provi-
2 sion of the Fair Labor Standards Act of 1938.

3 **SEC. 2. FINDINGS.**

4 The Congress makes the following findings:

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

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

18 (3) The Congress concurs in the findings of the
19 Comptroller General that most sweatshop employers
20 violate the recordkeeping requirements of the Fair
21 Labor Standards Act of 1938 and that the failure
22 of such employers to maintain adequate records has
23 and continues to adversely affect the ability of the
24 Department of Labor to collect wages due to work-
25 ers.

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

12 **SEC. 3. LEGAL RESPONSIBILITY FOR COMPLIANCE WITH**
 13 **WAGE AND HOUR PROVISIONS IN THE GAR-**
 14 **MENT INDUSTRY.**

15 (a) AMENDMENT.—The Fair Labor Standards Act of
 16 1938 is amended by adding after section 14 the following:

17 “LEGAL RESPONSIBILITY FOR COMPLIANCE IN THE
 18 GARMENT INDUSTRY WITH SECTIONS 6 AND 7

19 “SEC. 14A. (a) Every manufacturer engaged in the
 20 garment industry who contracts to have garment manu-
 21 facturing operations performed by another person as a
 22 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 vio-
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
9 consumer 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)—

1 (A) by striking “first sentence” and insert-
2 ing “first or second sentences”; and

3 (B) by inserting “or by a manufacturer in
4 the garment industry” after “liable”.

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.

○