

105TH CONGRESS
1ST SESSION

S. 554

To inform and empower consumers in the United States through a voluntary labeling system for wearing apparel or sporting goods made without abusive and exploitative child labor, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 10, 1997

Mr. HARKIN introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To inform and empower consumers in the United States through a voluntary labeling system for wearing apparel or sporting goods made without abusive and exploitative child labor, 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 “Child Labor Free
5 Consumer Information Act of 1997”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds that—

1 (1) the Secretary of Labor has conducted 3 de-
2 tailed studies that document the fact that abusive
3 and exploitative child labor exists worldwide;

4 (2) the Secretary of Labor has also determined,
5 through the studies referred to in paragraph (1),
6 that child laborers are often forced to work beyond
7 their physical capacities, under conditions that
8 threaten their health, safety, and development, and
9 are denied basic educational opportunities;

10 (3) in most instances, countries that have abu-
11 sive and exploitative child labor also experience a
12 high adult unemployment rate;

13 (4) the International Labor Organization (com-
14 monly known as the “ILO”) estimates that—

15 (A) approximately 250,000,000 children
16 between the ages of 5 and 14 are working in
17 developing countries; and

18 (B) many of those children manufacture
19 wearing apparel or sporting goods that are of-
20 fered for sale in the United States;

21 (5) consumers in the United States spend bil-
22 lions of dollars each year on wearing apparel and
23 sporting goods;

24 (6) consumers in the United States have the
25 right to information on whether the articles of wear-

ing apparel (including any section of that wearing apparel) or sporting goods that they purchase are made without abusive and exploitative child labor;

(7) the rugmark labeling and monitoring system is a successful model for eliminating abusive and exploitative child labor in the rug industry;

(8) the labeling of wearing apparel or sporting goods would provide the information referred to in paragraph (6) to consumers; and

(9) it is important to recognize United States businesses that have effective programs to ensure that products sold in the United States are not made with abusive and exploitative child labor.

TITLE I—CHILD LABOR FREE LABELING STANDARDS

SEC. 101. CHILD LABOR FREE LABELING STANDARDS.

(a) ESTABLISHMENT OF LABELING STANDARDS.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary of Labor, in consultation with the Child Labor Free Commission established under section 201, shall issue regulations to ensure that a label using the terms “Not Made With Child Labor”, “Child Labor Free”, or any other term or symbol referring to child labor does not make a false state-

1 ment or suggestion that the article or section of
2 wearing apparel or sporting good was not made with
3 child labor. The regulations developed under this
4 section shall encourage the use of an easily identifi-
5 able symbol or term indicating that the article or
6 section of wearing apparel or sporting good was not
7 made with child labor.

8 (2) NOTIFICATION ON USE.—

9 (A) IN GENERAL.—A producer, importer,
10 exporter, distributor, or other person intending
11 to use any label referred to in paragraph (1)
12 shall submit a notification to the Commission
13 for review under subparagraph (C).

14 (B) NOTIFICATION.—The notification re-
15 ferred to in subparagraph (A) shall include in-
16 formation concerning the source of the article
17 or section of wearing apparel or sporting good
18 to which the label will be affixed, including—

19 (i) the country in which the article or
20 section of wearing apparel or sporting good
21 is manufactured;

22 (ii) the name and location of the man-
23 ufacturer; and

24 (iii) information concerning any
25 outsourcing by the manufacturer in the

1 manufacture of the article or section of
2 wearing apparel or sporting good.

3 (C) REVIEW OF NOTIFICATION.—Upon re-
4 ceipt of the notification, the Commission shall
5 review the notification and inform the Secretary
6 of Labor concerning the findings of the review.
7 The permission of the Secretary of Labor shall
8 be required for the use of the label. The Sec-
9 retary of Labor, in consultation with the Com-
10 mission, shall establish procedures for granting
11 permission to use a label under this subpara-
12 graph.

13 (3) FEE.—The Secretary of Labor is authorized
14 to charge a fee to cover the expenses of the Commis-
15 sion in reviewing a notification under paragraph (2).
16 The level of fees charged under this subparagraph
17 shall not exceed the administrative costs incurred in
18 reviewing a notification. Fees collected under this
19 paragraph shall be available to the Secretary of
20 Labor for expenses incurred in the review and re-
21 sponse of the Commission under this subsection.

22 (4) APPLICABILITY.—The regulations issued
23 under paragraph (1) shall apply to any label con-
24 tained in—

1 (A) an article or section of wearing apparel
 2 or sporting good that is exported from or of-
 3 fered for sale in the United States;

4 (B) any packaging thereof; or

5 (C) any advertising for an article or sec-
 6 tion of wearing apparel or sporting good re-
 7 ferred to in subparagraph (A).

8 (5) EFFECTIVE DATE.—The regulations issued
 9 under paragraph (1) shall take effect on the date
 10 that is 180 days after the date of publication as
 11 final regulations.

12 (b) VIOLATION OF SECTION 5 OF THE FEDERAL
 13 TRADE COMMISSION ACT.—It is a violation of section 5
 14 of the Federal Trade Commission Act (15 U.S.C. 45) for
 15 any producer, importer, exporter, distributor, or seller of
 16 any article or section of wearing apparel or sporting good
 17 that is exported from or offered for sale in the United
 18 States—

19 (1) to falsely indicate on the label of that article
 20 or section of wearing apparel or sporting good, the
 21 packaging of the article or section of wearing ap-
 22 parel or sporting good, or any advertising for the ar-
 23 ticle or section of wearing apparel or sporting good
 24 that the article or section of wearing apparel or
 25 sporting good was not made with child labor; or

1 (2) to otherwise falsely claim or suggest that
 2 the article (or section of that article of wearing ap-
 3 parel) or sporting good was not made with child
 4 labor.

5 (c) AMENDMENT TO THE FEDERAL TRADE COMMIS-
 6 SION ACT.—Section 5(m)(1) of the Federal Trade Com-
 7 mission Act (15 U.S.C. 45(m)(1)) is amended—

8 (1) in subparagraph (A), by striking “The
 9 Commission” and inserting “Except as provided in
 10 subparagraph (D), the Commission”;

11 (2) in subparagraph (B), by striking “If the
 12 Commission” and inserting “Except as provided in
 13 subparagraph (D), if the Commission”; and

14 (3) by adding at the end the following new sub-
 15 paragraph:

16 “(D)(i)(I) In lieu of the applicable civil penalty under
 17 subparagraph (A) or (B), in any case in which the Com-
 18 mission commences a civil action for a violation of section
 19 101 of the Child Labor Free Consumer Information Act
 20 of 1997 under subparagraph (A), under subparagraph (B)
 21 for an unfair or deceptive practice that is considered to
 22 be a violation of this section by reason of section 101(b)
 23 of such Act, or under subparagraph (C) for a continuing
 24 failure that is considered to be a violation of this section
 25 by reason of section 101(b) of such Act, if that violation—

1 “(aa) is a knowing or willful violation, the
2 amount of a civil penalty for the violation shall be
3 determined under clause (ii); or

4 “(bb) is not a knowing or willful violation, no
5 penalty shall be assessed against the person, part-
6 nership, or corporation that committed the violation.

7 “(II) For purposes of this subparagraph, if in an ac-
8 tion referred to in subclause (I), if the Commission asserts
9 that a violation is a knowing and willful violation, the de-
10 fendant shall bear the burden of proving otherwise.

11 “(ii) The amount of a civil penalty for a violation
12 under clause (i)(I)(aa) that is committed shall be—

13 “(I) for an initial violation, an amount equal to
14 the greater of—

15 “(aa) 2 times the retail value of the arti-
16 cles of wearing apparel or sporting goods mis-
17 labeled; or

18 “(bb) \$200,000; and

19 “(II) for any subsequent violation, an amount
20 equal to the greater of—

21 “(aa) 4 times the retail value of the arti-
22 cles of wearing apparel or sporting goods mis-
23 labeled; or

24 “(bb) \$400,000.”.

25 (d) SPECIAL FUND TO ASSIST CHILDREN.—

1 (1) CREATION OF FUND.—There is established
2 in the United States Treasury a special fund to be
3 known as the “Free the Children Fund”.

4 (2) DEPOSITS INTO FUND.—An amount equal
5 to the amount of penalties collected under this sec-
6 tion shall be deposited into the special fund. The
7 Secretary of the Treasury shall, upon request of the
8 Secretary of Labor, make the amounts deposited
9 into the special fund available to the Secretary of
10 Labor for use by the Secretary of Labor for edu-
11 cational and other programs described in paragraph
12 (3).

13 (3) AUTHORIZATION.—Amounts deposited into
14 the special fund are authorized to be appropriated
15 annually for educational and other programs with
16 the goal of eliminating child labor.

17 (e) OTHER INDUSTRIES.—The Commission may, as
18 appropriate, develop labeling standards similar to the la-
19 beling standards developed under this section for any in-
20 dustry that is not otherwise covered under this Act and
21 recommend to the Secretary of Labor that those standards
22 be promulgated. If the standards are promulgated by the
23 Secretary of Labor—

24 (1) the provisions of this Act and the amend-
25 ments made by this Act shall apply to the labeling

1 covered by those standards in the same manner as
 2 they apply to any other standards promulgated by
 3 the Secretary of Labor under this section; and

4 (2) it shall be a violation of section 5 of the
 5 Federal Trade Commission Act (15 U.S.C. 45) for
 6 any producer, importer, exporter, distributor, or sell-
 7 er of any good that is covered under the labeling
 8 standards and that is exported from or offered for
 9 sale in the United States—

10 (A) to falsely indicate on the label of that
 11 good, the packaging thereof, or any related ad-
 12 vertising that the good was not made with child
 13 labor; or

14 (B) to otherwise falsely claim or suggest
 15 that the good was not made with child labor.

16 **SEC. 102. REVIEW OF PETITIONS BY THE CHILD LABOR**
 17 **FREE COMMISSION.**

18 (a) IN GENERAL.—In addition to the procedures es-
 19 tablished under section 5 of the Federal Trade Commis-
 20 sion Act (15 U.S.C. 45), the Child Labor Free Commis-
 21 sion established under section 201 shall assist the Federal
 22 Trade Commission by reviewing petitions under this sec-
 23 tion.

24 (b) CONTENTS OF PETITIONS.—A petition under this
 25 section shall—

1 (1) be submitted in such form and in such man-
2 ner as the Federal Trade Commission, in consulta-
3 tion with the Secretary of Labor and the Child
4 Labor Free Commission, shall prescribe;

5 (2) contain the name of the—

6 (A) petitioner; and

7 (B) person or entity involved in the alleged
8 violation of the labeling standards under section
9 101; and

10 (3) provide a detailed explanation of the alleged
11 violation, including all available evidence.

12 (c) REVIEW BY COMMISSION.—

13 (1) IN GENERAL.—The Commission shall, to
14 the maximum extent practicable, not later than 90
15 days after receiving a petition, review the petition to
16 determine whether there appears to have been a vio-
17 lation of the labeling standards.

18 (2) ACTION BY THE FEDERAL TRADE COMMIS-
19 SION.—

20 (A) IN GENERAL.—Upon completion of a
21 review conducted under paragraph (1), the
22 Commission shall forward the petition to the
23 Secretary of Labor, together with a report by
24 the Commission containing a determination by
25 the Commission concerning the merits of the

petition, including whether a violation of the labeling standards occurred and whether there appears to have been a knowing and willful (within the meaning of section 5(m)(1)(D)(i) of the Federal Trade Commission Act, as added by section 101(c) of this Act) or repeated violation of those standards.

(B) DUTIES OF THE SECRETARY OF LABOR.—Upon receipt of the petition and report, the Secretary of Labor shall—

(i) forward a copy of the petition and report to the Federal Trade Commission for review by the Federal Trade Commission; and

(ii) review the petition and report.

(3) TEMPORARY WITHDRAWAL OF PERMISSION; ORDER TO CEASE AND DESIST.—

(A) TEMPORARY WITHDRAWAL OF PERMISSION.—If the Secretary of Labor determines, on the basis of the report referred to in paragraph (2), that there is a substantial likelihood that a violation of the labeling standards promulgated under section 101 has occurred, the Secretary of Labor may temporarily withdraw the permission granted under section

1 101(a)(2)(C) and inform the Federal Trade
 2 Commission of the action and the reason for
 3 the action.

4 (B) ORDER TO CEASE AND DESIST.—If the
 5 Federal Trade Commission concurs with a de-
 6 termination of the Child Labor Free Commis-
 7 sion in the report referred to in subparagraph
 8 (A) that a violation of the labeling standards
 9 has occurred, the Federal Trade Commission
 10 shall take such action as may be necessary
 11 under the Federal Trade Commission Act (15
 12 U.S.C. 41 et seq.) to cause the person or entity
 13 in violation of the labeling standards under sec-
 14 tion 101 to cease and desist from violating
 15 those standards immediately upon that concur-
 16 rence.

17 **TITLE II—CHILD LABOR FREE** 18 **COMMISSION**

19 **SEC. 201. ESTABLISHMENT OF COMMISSION.**

20 (a) ESTABLISHMENT.—There is established a com-
 21 mission to be known as the “Child Labor Free Commis-
 22 sion”.

23 (b) MEMBERSHIP.—

24 (1) COMPOSITION.—The Commission shall be
 25 composed of 17 members, of whom—

1 (A) 1 shall be the Secretary of Commerce
2 or a designee of the Secretary of Commerce;

3 (B) 1 shall be the Secretary of the Treas-
4 ury or a designee of the Secretary of the Treas-
5 ury;

6 (C) 1 shall be the United States Trade
7 Representative or a designee of the United
8 States Trade Representative;

9 (D) 1 shall be the Secretary of Labor or
10 a designee of the Secretary of Labor, who shall
11 serve as the Chairperson of the Commission;

12 (E) 3 shall be representatives of non-
13 governmental organizations that work toward
14 the eradication of abusive and exploitative child
15 labor and in the promotion of human rights,
16 appointed by the Secretary of Labor;

17 (F) 3 shall be representatives of labor or-
18 ganizations, appointed by the Secretary of
19 Labor;

20 (G) 3 shall be representatives of the wear-
21 ing apparel industry, appointed by the Sec-
22 retary of Labor;

23 (H) 3 shall be representatives of the sport-
24 ing goods industry, appointed by the Secretary
25 of Labor; and

1 (I) 1 additional member shall be appointed
2 by the Secretary of Labor.

3 (2) DATE.—The appointments of the members
4 of the Commission shall be made not later than 60
5 days after the date of enactment of this Act.

6 (c) PERIOD OF APPOINTMENT; VACANCIES.—

7 (1) PERIOD OF APPOINTMENT.—Each member
8 of the Commission shall serve for a term of 4 years,
9 except that in appointing the initial members of the
10 Commission, the Secretary of Labor shall stagger
11 the terms of the non-Federal members.

12 (2) VACANCIES.—Any vacancy in the Commis-
13 sion shall not affect its powers, but shall be filled in
14 the same manner as the original appointment.

15 (d) INITIAL MEETING.—Not later than 30 days
16 after the date on which all members of the Commission
17 have been appointed, the Commission shall hold its first
18 meeting.

19 (e) MEETINGS.—The Commission shall meet at the
20 call of the Chairperson or at the request of a majority
21 of the members.

22 (f) QUORUM.—A majority of the members of the
23 Commission shall constitute a quorum, but a lesser num-
24 ber of members may hold hearings or other meetings.

1 **SEC. 202. DUTIES OF THE COMMISSION.**

2 The Commission shall—

3 (1) assist the Secretary of Labor in developing
4 labeling standards under section 101; and

5 (2) assist the Secretary of Labor in developing
6 and implementing a system to ensure compliance
7 with the labeling standards established under section
8 101, including—

9 (A) receiving, reviewing, and making rec-
10 ommendations for the resolution of petitions re-
11 ceived under section 102 that allege noncompli-
12 ance with the labeling standards under section
13 101;

14 (B) making recommendations to the Sec-
15 retary of Labor for the removal of labels subject
16 to the standards under section 101 that are
17 found to be in violation of those standards;

18 (C) assisting the Secretary of Labor in de-
19 veloping and implementing a system to promote
20 the increased use of the labeling standards
21 under section 101;

22 (D) publishing, not less frequently than
23 annually, a list of persons and entities that
24 have notified the Commission of their intent to
25 use a label under section 101(a)(2); and

1 (E) publishing, not less frequently than
2 annually, a list of persons and entities found to
3 be in violation of any provision of this Act; and
4 (3) not later than 1 year after the date of the
5 establishment of the Commission, commence a study
6 into the feasibility of developing an easily identifi-
7 able labeling standard that the Secretary of Labor
8 may issue to encourage the use of voluntary labels
9 that ensure consumers that an article of wearing ap-
10 parel or sporting good was made without the use of
11 sweatshop or exploited adult labor.

12 **SEC. 203. POWERS OF THE COMMISSION.**

13 (a) HEARINGS.—The Commission may hold such
14 hearings, sit and act at such times and places, take such
15 testimony, and receive such evidence as the Commission
16 considers advisable to carry out the duties of the Commis-
17 sion under this title.

18 (b) INFORMATION FROM FEDERAL AGENCIES.—The
19 Commission may secure directly from any Federal depart-
20 ment or agency such information as the Commission con-
21 siders necessary to carry out the duties of the Commission
22 under this title. Upon request of the Chairperson of the
23 Commission, the head of such department or agency shall
24 furnish such information to the Commission.

1 (c) POSTAL SERVICES.—The Commission may use
2 the United States mails in the same manner and under
3 the same conditions as other departments and agencies of
4 the Federal Government.

5 (d) GIFTS.—The Commission may accept, use, and
6 dispose of gifts or donations of services or property.

7 **SEC. 204. COMMISSION PERSONNEL MATTERS.**

8 (a) NON-FEDERAL MEMBERS.—Each member of the
9 Commission who is not an officer or employee of the Fed-
10 eral Government shall serve without compensation.

11 (b) FEDERAL MEMBERS.—Each member of the Com-
12 mission who is an officer or employee of the United States
13 shall serve without compensation in addition to that re-
14 ceived for that member's services as an officer or employee
15 of the United States.

16 **SEC. 205. ADMINISTRATIVE AND SUPPORT SERVICES.**

17 The Secretary of Labor shall, to the extent permitted
18 by law, provide the Commission with such administrative
19 services, funds, facilities, staff, and other support services
20 as may be necessary for the performance of its functions.

1 **TITLE III—RECOGNITION OF EX-**
2 **EMPLARY CORPORATE EF-**
3 **FORTS**

4 **SEC. 301. ANNUAL REPORT.**

5 Not later than 1 year after the date of enactment
6 of this Act, and annually thereafter, the Secretary of
7 Labor shall issue a report concerning companies that are
8 making exemplary progress in ensuring that products
9 made, sold, or distributed by those companies are not
10 made with abusive and exploitative child labor.

11 **SEC. 302. ADDITIONAL METHODS.**

12 In addition to the reports made under section 301,
13 the Secretary of Labor in consultation with the Commis-
14 sion shall develop and implement other methods of provid-
15 ing recognition for exemplary programs carried out by
16 companies to ensure that products made, sold, or distrib-
17 uted by those companies are not made with abusive and
18 exploitative child labor.

19 **TITLE IV—DEFINITIONS**

20 **SEC. 401. DEFINITIONS.**

21 For purposes of this Act, the following definitions
22 shall apply:

23 (1) CHILD.—The term “child” means—

1 (A) an individual who has not attained the
2 age of 15 years, as measured by the Julian cal-
3 endar; or

4 (B) an individual who has not attained the
5 age of 14 years, as measured by the Julian cal-
6 endar, in the case of an individual who resides
7 in a country that, by law, defines a child as
8 such an individual.

9 (2) COMMISSION.—The term “Commission”
10 means the Child Labor Free Commission established
11 under section 201.

12 (3) LABEL.—The term “label” means a display
13 of written, printed, or graphic matter on or affixed
14 to an article of wearing apparel or a sporting good
15 or on the packaging of the article or a sporting good
16 that meets the standards described in section
17 101(a).

18 (4) MADE WITH CHILD LABOR.—

19 (A) IN GENERAL.—A manufactured article
20 or section of wearing apparel or a sporting good
21 shall be considered to have been made with
22 child labor if the article or section—

23 (i) was fabricated, assembled, or proc-
24 essed in whole or in part; or

1 (ii) contains any part that was fab-
2 ricated assembled, or processed in whole or
3 in part,
4 by any child described in subparagraph (B).

5 (B) COVERED CHILDREN.—A child is de-
6 scribed in this subparagraph if that child en-
7 gaged in the fabrication, assembly, or process-
8 ing of the article or section—

9 (i) under circumstances that the Sec-
10 retary of Labor considers to be abusive or
11 exploitative;

12 (ii) under circumstances tantamount
13 to involuntary servitude; or

14 (iii) under—

15 (I) exposure to toxic substances
16 or working conditions that otherwise
17 pose serious health hazards; or

18 (II) working conditions that re-
19 sult in the child's being deprived of
20 basic educational opportunities.

21 (5) PRODUCER.—The term “producer” includes
22 a contractor or subcontractor of a manufacturer of
23 all or part of a good.

1 (6) SPORTING GOOD.—The term “sporting
2 good” shall have the meaning provided that term by
3 the Secretary of Labor.

4 (7) WEARING APPAREL.—The term “wearing
5 apparel” shall have the meaning provided that term
6 by the Secretary of Labor.

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