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1ST SESSION

S. 1549

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

AUGUST 5, 1999

Mr. HARKIN (for himself, Mr. HOLLINGS, and Mr. DORGAN) 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 Con-
5 sumer Information Act of 1999”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

1 (1) the Secretary of Labor has conducted at
2 least 5 detailed studies that document the fact that
3 abusive 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 or 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”) in 1999 estimated
15 that—

16 (A) approximately 250,000,000 children
17 who are ages 5 through 14 are working in de-
18 veloping countries; and

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

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

1 (6) consumers in the United States have the
2 right to information on whether the articles of wear-
3 ing apparel (including any section of that wearing
4 apparel) or sporting goods that the consumers pur-
5 chase are made without abusive and exploitative
6 child labor;

7 (7) the rugmark labeling and monitoring system
8 is a successful model for eliminating abusive and ex-
9 ploitative child labor in the rug industry;

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

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

17 **TITLE I—CHILD LABOR FREE**
18 **LABELING STANDARDS**

19 **SEC. 101. CHILD LABOR FREE LABELING STANDARDS.**

20 (a) ESTABLISHMENT OF LABELING STANDARDS.—

21 (1) IN GENERAL.—Not later than 180 days
22 after the date of enactment of this Act, the Sec-
23 retary of Labor, in consultation with the Child
24 Labor Free Commission established under section
25 201, shall issue regulations to ensure that a label

1 using the terms “Not Made With Child Labor”,
2 “Child Labor Free”, or any other term or symbol re-
3 ferring to child labor does not make a false state-
4 ment or suggestion that an article or section of
5 wearing apparel or sporting good was not made with
6 child labor. The regulations developed under this
7 section shall encourage the use of an easily identifi-
8 able symbol or term indicating that the article or
9 section of wearing apparel or sporting good was not
10 made with child labor.

11 (2) NOTIFICATION ON USE.—

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

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

23 (i) the country in which the article or
24 section of wearing apparel or sporting good
25 is manufactured;

1 (ii) the name and location of the man-
2 ufacturer; and

3 (iii) any outsourcing by the manufac-
4 turer in the manufacture of the article or
5 section of wearing apparel or sporting
6 good.

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

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

1 (4) APPLICABILITY.—The regulations issued
2 under paragraph (1) shall apply to any label con-
3 tained in or affixed to—

4 (A) an article or section of wearing apparel
5 or sporting good that is exported from or of-
6 ferred for sale in the United States;

7 (B) any packaging for an article or section
8 of wearing apparel or sporting good referred to
9 in subparagraph (A); or

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

13 (5) EFFECTIVE DATE.—The regulations issued
14 under paragraph (1) shall take effect on the date
15 that is 180 days after the date of publication as
16 final regulations.

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

24 (1) to falsely indicate on the label of that article
25 or section of wearing apparel or sporting good, the

1 packaging of the article or section of wearing ap-
 2 parel or sporting good, or any advertising for the ar-
 3 ticle or section of wearing apparel or sporting good
 4 that the article or section of wearing apparel or
 5 sporting good was not made with child labor; or

6 (2) to otherwise falsely claim or suggest that
 7 the article (or section of that article) of wearing ap-
 8 parel or sporting good was not made with child
 9 labor.

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

13 (1) in subparagraph (A), by striking “The
 14 Commission” and inserting “Except as provided in
 15 subparagraph (D), the Commission”;

16 (2) in subparagraph (B), by striking “If the
 17 Commission” and inserting “Except as provided in
 18 subparagraph (D), if the Commission”; and

19 (3) by adding at the end the following new sub-
 20 paragraph:

21 “(D)(i)(I) In lieu of the applicable civil penalty under
 22 subparagraph (A) or (B), in any case in which the Com-
 23 mission commences a civil action for a violation of section
 24 101 of the Child Labor Free Consumer Information Act
 25 of 1999 under subparagraph (A), under subparagraph (B)

1 for an unfair or deceptive practice that is considered to
 2 be a violation of this section by reason of section 101(b)
 3 of such Act, or under subparagraph (C) for a continuing
 4 failure that is considered to be a violation of this section
 5 by reason of section 101(b) of such Act, if that violation—

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

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

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

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

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

20 “(aa) 2 times the retail value of the arti-
 21 cles of wearing apparel or sporting goods mis-
 22 labeled; or

23 “(bb) \$200,000; and

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

1 “(aa) 4 times the retail value of the arti-
2 cles of wearing apparel or sporting goods mis-
3 labeled; or

4 “(bb) \$400,000.”.

5 (d) SPECIAL FUND TO ASSIST CHILDREN.—

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

9 (2) TRANSFERS INTO FUND.—There are appro-
10 priated to the special fund amounts equivalent to the
11 penalties collected under this section (including the
12 amendments made by this section). The Secretary of
13 the Treasury shall, upon request of the Secretary of
14 Labor, make the amounts in the special fund avail-
15 able to the Secretary of Labor for use by the Sec-
16 retary of Labor for educational and other programs
17 described in paragraph (3).

18 (3) AVAILABILITY.—Amounts deposited into the
19 special fund shall be available for educational and
20 other programs with the goal of eliminating child
21 labor.

22 (e) OTHER INDUSTRIES.—The Commission may, as
23 appropriate, develop labeling standards similar to the la-
24 beling standards developed under this section for any in-
25 dustry that is not otherwise covered under this Act and

1 recommend to the Secretary of Labor that those standards
 2 be promulgated. If the standards are promulgated by the
 3 Secretary of Labor—

4 (1) the provisions of this Act and the amend-
 5 ments made by this Act shall apply to the labeling
 6 covered by those standards in the same manner as
 7 they apply to any other standards promulgated by
 8 the Secretary of Labor under this section; and

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

15 (A) to falsely indicate on the label of that
 16 good, the packaging of the good, or any related
 17 advertising that the good was not made with
 18 child labor; or

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

21 **SEC. 102. REVIEW OF PETITIONS BY THE CHILD LABOR**
 22 **FREE COMMISSION.**

23 (a) IN GENERAL.—In addition to the procedures es-
 24 tablished under section 5 of the Federal Trade Commis-
 25 sion Act (15 U.S.C. 45), the Child Labor Free Commis-

1 sion established under section 201 shall assist the Federal
2 Trade Commission by reviewing petitions under this sec-
3 tion.

4 (b) CONTENTS OF PETITIONS.—A petition under this
5 section shall—

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

10 (2) contain the name of the—

11 (A) petitioner; and

12 (B) person or entity involved in the alleged
13 violation of the labeling standards under section
14 101; and

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

17 (c) REVIEW BY COMMISSION.—

18 (1) IN GENERAL.—The Commission shall, to
19 the maximum extent practicable, not later than 90
20 days after receiving a petition, review the petition to
21 determine whether there appears to have been a vio-
22 lation of the labeling standards.

23 (2) ACTION BY THE FEDERAL TRADE COMMIS-
24 SION.—

1 (A) IN GENERAL.—Upon completion of a
 2 review conducted under paragraph (1), the
 3 Commission shall forward the petition to the
 4 Secretary of Labor, together with a report by
 5 the Commission containing a determination by
 6 the Commission concerning the merits of the
 7 petition, including whether a violation of the la-
 8 beling standards occurred and whether there
 9 appears to have been a knowing and willful
 10 (within the meaning of section 5(m)(1)(D)(i) of
 11 the Federal Trade Commission Act, as added
 12 by section 101(c) of this Act) or repeated viola-
 13 tion of those standards.

14 (B) DUTIES OF THE SECRETARY OF
 15 LABOR.—Upon receipt of the petition and re-
 16 port, the Secretary of Labor shall—

17 (i) forward a copy of the petition and
 18 report to the Federal Trade Commission
 19 for review by the Federal Trade Commis-
 20 sion; and

21 (ii) review the petition and report.

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

24 (A) TEMPORARY WITHDRAWAL OF PERMIS-
 25 SION.—If the Secretary of Labor determines,

1 on the basis of the report referred to in para-
2 graph (2), that there is a substantial likelihood
3 that a violation of the labeling standards pro-
4 mulgated under section 101 has occurred, the
5 Secretary of Labor may temporarily withdraw
6 the permission granted under section
7 101(a)(2)(C) and inform the Federal Trade
8 Commission of the action and the reason for
9 the action.

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

**TITLE II—CHILD LABOR FREE
COMMISSION**

SEC. 201. ESTABLISHMENT OF COMMISSION.

(a) ESTABLISHMENT.—There is established a commission to be known as the “Child Labor Free Commission”.

(b) MEMBERSHIP.—

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

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

(B) 1 shall be the Secretary of the Treasury or a designee of the Secretary of the Treasury;

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

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

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

1 (F) 3 shall be representatives of labor or-
2 ganizations, appointed by the Secretary of
3 Labor;

4 (G) 3 shall be representatives of the wear-
5 ing apparel industry, appointed by the Sec-
6 retary of Labor;

7 (H) 3 shall be representatives of the sport-
8 ing goods industry, appointed by the Secretary
9 of Labor; and

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

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

15 (c) PERIOD OF APPOINTMENT; VACANCIES.—

16 (1) PERIOD OF APPOINTMENT.—Each member
17 of the Commission shall serve for a term of 4 years,
18 except that in appointing the initial members of the
19 Commission, the Secretary of Labor shall stagger
20 the terms of the members who are not officers or
21 employees of the United States.

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

1 (d) INITIAL MEETING.—Not later than 30 days
2 after the date on which all members of the Commission
3 have been appointed, the Commission shall hold its first
4 meeting.

5 (e) MEETINGS.—The Commission shall meet at the
6 call of the Chairperson or at the request of a majority
7 of the members.

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

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

12 The Commission shall—

13 (1) assist the Secretary of Labor in developing
14 labeling standards under section 101;

15 (2) assist the Secretary of Labor in developing
16 and implementing a system to ensure compliance
17 with the labeling standards established under section
18 101, including—

19 (A) receiving, reviewing, and making rec-
20 ommendations for the resolution of petitions re-
21 ceived under section 102 that allege noncompli-
22 ance with the labeling standards under section
23 101;

24 (B) making recommendations to the Sec-
25 retary of Labor for the removal of labels subject

1 to the standards under section 101 that are
2 found to be in violation of those standards;

3 (C) assisting the Secretary of Labor in de-
4 veloping and implementing a system to promote
5 the increased use of the labeling standards
6 under section 101;

7 (D) publishing, not less frequently than
8 annually, a list of persons and entities that
9 have notified the Commission of their intent to
10 use a label under section 101(a)(2); and

11 (E) publishing, not less frequently than
12 annually, a list of persons and entities found to
13 be in violation of any provision of this Act; and

14 (3) not later than 1 year after the date of the
15 establishment of the Commission, commence a study
16 into the feasibility of developing an easily identifi-
17 able labeling standard that the Secretary of Labor
18 may issue to encourage the use of voluntary labels
19 that ensure consumers that an article of wearing ap-
20 parel or sporting good was made without the use of
21 sweatshop or exploited adult labor.

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

23 (a) HEARINGS.—The Commission may hold such
24 hearings, sit and act at such times and places, take such
25 testimony, and receive such evidence as the Commission

1 considers advisable to carry out the duties of the Commis-
2 sion under this title.

3 (b) INFORMATION FROM FEDERAL AGENCIES.—The
4 Commission may secure directly from any Federal depart-
5 ment or agency such information as the Commission con-
6 siderers necessary to carry out the duties of the Commission
7 under this title. Upon request of the Chairperson of the
8 Commission, the head of such department or agency shall
9 furnish such information to the Commission.

10 (c) POSTAL SERVICES.—The Commission may use
11 the United States mails in the same manner and under
12 the same conditions as other departments and agencies of
13 the Federal Government.

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

16 **SEC. 204. COMMISSION PERSONNEL MATTERS.**

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

20 (b) FEDERAL MEMBERS.—Each member of the Com-
21 mission who is an officer or employee of the United States
22 shall serve without compensation in addition to that re-
23 ceived for that member's services as an officer or employee
24 of the United States.

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

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

6 **SEC. 206. PERMANENCY.**

7 Section 14 of the Federal Advisory Committee Act
8 (5 U.S.C. App.) shall not apply to the Commission.

9 **TITLE III—RECOGNITION OF EX-**
10 **EMPLARY CORPORATE EF-**
11 **FORTS**

12 **SEC. 301. ANNUAL REPORT.**

13 Not later than 1 year after the date of enactment
14 of this Act, and annually thereafter, the Secretary of
15 Labor shall issue a report concerning companies that are
16 making exemplary progress in ensuring that products
17 made, sold, or distributed by those companies are not
18 made with abusive and exploitative child labor.

19 **SEC. 302. ADDITIONAL METHODS.**

20 In addition to the reports made under section 301,
21 the Secretary of Labor in consultation with the Commis-
22 sion shall develop and implement other methods of pro-
23 viding recognition for exemplary programs carried out by
24 companies to ensure that products made, sold, or distrib-
25 uted by those companies are not made with abusive and
26 exploitative child labor.

TITLE IV—DEFINITIONS

SEC. 401. DEFINITIONS.

In this Act:

(1) CHILD.—The term “child” means—

(A) an individual who has not attained the age of 15 years, as measured by the Julian calendar; or

(B) an individual who has not attained the age of 14 years, as measured by the Julian calendar, in the case of an individual who resides in a country that, by law, defines a child as such an individual.

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

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

(4) MADE WITH CHILD LABOR.—

(A) IN GENERAL.—A manufactured article or section of wearing apparel or a sporting good

1 shall be considered to have been made with
2 child labor if the article or section—

3 (i) was fabricated, assembled, or proc-
4 essed in whole or in part; or

5 (ii) contains any part that was fab-
6 ricated, assembled, or processed in whole
7 or in part,

8 by any child described in subparagraph (B).

9 (B) COVERED CHILDREN.—A child is de-
10 scribed in this subparagraph if that child en-
11 gaged in the fabrication, assembly, or proc-
12 essing of the article or section—

13 (i) under circumstances that the Sec-
14 retary of Labor considers to be abusive or
15 exploitative;

16 (ii) under circumstances tantamount
17 to involuntary servitude; or

18 (iii) under—

19 (I) exposure to toxic substances
20 or working conditions that otherwise
21 pose serious health hazards; or

22 (II) working conditions that re-
23 sult in the child's being deprived of
24 basic educational opportunities.

1 (5) PRODUCER.—The term “producer” includes
2 a contractor or subcontractor of a manufacturer of
3 all or part of a good.

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

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

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