

106TH CONGRESS
1ST SESSION

S. 373

To prohibit the acquisition of products produced by forced or indentured
child labor.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 4, 1999

Mr. HARKIN introduced the following bill; which was read twice and referred
to the Committee on Governmental Affairs

A BILL

To prohibit the acquisition of products produced by forced
or indentured child labor.

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 “Forced and Indentured
5 Child Labor Prevention Act”.

6 **SEC. 2. PROHIBITION OF ACQUISITION OF PRODUCTS PRO-**
7 **DUCTED BY FORCED OR INDENTURED CHILD**
8 **LABOR.**

9 (a) PROHIBITION.—The head of an executive agency
10 (as defined in section 105 of title 5, United States Code)

1 may not acquire an item that appears on a list published
 2 under subsection (b) unless the source of the item certifies
 3 to the head of the executive agency that forced or inden-
 4 tured child labor was not used to mine, produce, or manu-
 5 facture the item.

6 (b) PUBLICATION OF LIST OF PROHIBITED ITEMS.—

7 (1) IN GENERAL.—The Secretary of Labor, in
 8 consultation with the Secretary of the Treasury and
 9 the Secretary of State, shall publish in the Federal
 10 Register every other year a list of items that such
 11 officials have identified that might have been mined,
 12 produced, or manufactured by forced or indentured
 13 child labor.

14 (2) DATE OF PUBLICATION.—The first list shall
 15 be published under paragraph (1) not later than 120
 16 days after the date of the enactment of this Act.

17 (c) REQUIRED CONTRACT CLAUSES.—

18 (1) IN GENERAL.—The head of an executive
 19 agency shall include in each solicitation of offers for
 20 a contract for the procurement of an item included
 21 on a list published under subsection (b) the following
 22 clauses:

23 (A) A clause that requires the contractor
 24 to certify to the contracting officer that the
 25 contractor or, in the case of an incorporated

1 contractor, a responsible official of the contrac-
2 tor has made a good faith effort to determine
3 whether forced or indentured child labor was
4 used to mine, produce, or manufacture any item
5 furnished under the contract and that, on the
6 basis of those efforts, the contractor is unaware
7 of any such use of child labor.

8 (B) A clause that obligates the contractor
9 to cooperate fully to provide access for the head
10 of the executive agency or the inspector general
11 of the executive agency to the contractor's
12 records, documents, persons, or premises if re-
13 quested by the official for the purpose of deter-
14 mining whether forced or indentured child labor
15 was used to mine, produce, or manufacture any
16 item furnished under the contract.

17 (2) APPLICATION OF SUBSECTION.—This sub-
18 section shall apply with respect to acquisitions for a
19 total amount in excess of the micro-purchase thresh-
20 old (as defined in section 32(f) of the Office of Fed-
21 eral Procurement Policy Act (41 U.S.C. 428(f)), in-
22 cluding acquisitions of commercial items for such an
23 amount notwithstanding section 34 of the Office of
24 Federal Procurement Act (41 U.S.C. 430).

1 (d) INVESTIGATIONS.—Whenever a contracting offi-
 2 cer of an executive agency has reason to believe that a
 3 contractor has submitted a false certification under sub-
 4 section (a) or (c)(1)(A) or has failed to provide coopera-
 5 tion in accordance with the obligation imposed pursuant
 6 to subsection (c)(1)(B), the head of the executive agency
 7 shall refer the matter, for investigation, to the Inspector
 8 General of the executive agency and, as the head of the
 9 executive agency determines appropriate, to the Attorney
 10 General and the Secretary of the Treasury.

11 (e) REMEDIES.—

12 (1) IN GENERAL.—The head of an executive
 13 agency may impose remedies as provided in this sub-
 14 section in the case of a contractor under a contract
 15 of the executive agency if the head of the executive
 16 agency finds that the contractor—

17 (A) has furnished under the contract items
 18 that have been mined, produced, or manufac-
 19 tured by forced or indentured child labor or
 20 uses forced or indentured child labor in mining,
 21 production, or manufacturing operations of the
 22 contractor;

23 (B) has submitted a false certification
 24 under subparagraph (A) of subsection (c)(1); or

1 (C) has failed to provide cooperation in ac-
2 cordance with the obligation imposed pursuant
3 to subparagraph (B) of such subsection.

4 (2) TERMINATION OF CONTRACTS.—The head
5 of the executive agency, in the sole discretion of the
6 head of the executive agency, may terminate a con-
7 tract on the basis of any finding described in para-
8 graph (1).

9 (3) DEBARMENT OR SUSPENSION.—The head of
10 an executive agency may debar or suspend a con-
11 tractor from eligibility for Federal contracts on the
12 basis of a finding that the contractor has engaged
13 in an act described in paragraph (1)(A). The period
14 of the debarment or suspension may not exceed 3
15 years.

16 (4) INCLUSION ON LIST.—The Administrator of
17 General Services shall include on the List of Parties
18 Excluded from Federal Procurement and Non-
19 procurement Programs (maintained by the Adminis-
20 trator as described in the Federal Acquisition Regu-
21 lation) each person that is debarred, suspended, pro-
22 posed for debarment or suspension, or declared ineli-
23 gible by the head of an executive agency or the
24 Comptroller General on the basis that the person

1 uses forced or indentured child labor to mine,
2 produce, or manufacture any item.

3 (5) OTHER REMEDIES.—This subsection shall
4 not be construed to limit the use of other remedies
5 available to the head of an executive agency or any
6 other official of the Federal Government on the
7 basis of a finding described in paragraph (1).

8 (f) REPORT.—Each year, the Administrator of Gen-
9 eral Services, with the assistance of the heads of other
10 executive agencies, shall review the actions taken under
11 this section and submit to Congress a report on those ac-
12 tions.

13 (g) IMPLEMENTATION IN THE FEDERAL ACQUI-
14 TION REGULATION.—

15 (1) IN GENERAL.—The Federal Acquisition
16 Regulation shall be revised within 180 days after the
17 date of enactment of this Act—

18 (A) to provide for the implementation of
19 this section; and

20 (B) to include the use of forced or inden-
21 tured child labor in mining, production, or man-
22 ufacturing as a cause on the lists of causes for
23 debarment and suspension from contracting
24 with executive agencies that are set forth in the
25 regulation.

1 (2) PUBLICATION.—The revisions of the Fed-
 2 eral Acquisition Regulation shall be published in the
 3 Federal Register promptly after the final revisions
 4 are issued.

5 (h) EXCEPTION.—

6 (1) IN GENERAL.—This section shall not apply
 7 to a contract that is for the procurement of any
 8 product, or any article, material, or supply contained
 9 in a product, that is mined, produced, or manufac-
 10 tured in any foreign country or instrumentality, if—

11 (A) the foreign country or instrumentality
 12 is—

13 (i) a party to the Agreement on Gov-
 14 ernment Procurement annexed to the
 15 WTO Agreement; or

16 (ii) a party to the North American
 17 Free Trade Agreement; and

18 (B) the contract is of a value that is equal
 19 to or greater than the United States threshold
 20 specified in the Agreement on Government Pro-
 21 curement annexed to the WTO Agreement or
 22 the North American Free Trade Agreement,
 23 whichever is applicable.

24 (2) WTO AGREEMENT.—For purposes of this
 25 subsection, the term “WTO Agreement” means the

1 Agreement Establishing the World Trade Organiza-
2 tion, entered into on April 15, 1994.

3 (i) APPLICABILITY.—

4 (1) IN GENERAL.—Except as provided in sub-
5 section (c)(2), the requirements of this section apply
6 on and after the date determined under paragraph
7 (2) to any solicitation that is issued, any unsolicited
8 proposal that is received, and any contract that is
9 entered into by an executive agency pursuant to
10 such a solicitation or proposal on or after such date.

11 (2) DATE.—The date referred to in paragraph
12 (1) is the date that is 30 days after the date of the
13 publication of the revisions of the Federal Acquisi-
14 tion Regulation under subsection (g)(2).

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