

109TH CONGRESS  
1ST SESSION

# H. R. 4613

To amend the Fair Labor Standards Act of 1938 to provide access to information about sweatshop conditions in the garment industry, and for other purposes.

---

## IN THE HOUSE OF REPRESENTATIVES

DECEMBER 16, 2005

Ms. VELÁZQUEZ (for herself, Mr. OWENS, Mr. BRADY of Pennsylvania, Mr. KILDEE, Mr. FRANK of Massachusetts, Ms. SCHAKOWSKY, and Ms. KAPTUR) 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 access to information about 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.**

4       This Act may be cited as the “Garment Consumer’s  
5       Right-to-Know Act of 2005”.

6       **SEC. 2. FINDINGS.**

7       The Congress finds the following:

1           (1) The production of garments in sweatshops  
2           that violate labor rights and standards burdens  
3           interstate and international commerce and the free  
4           flow of goods in commerce by spreading and perpet-  
5           uating labor conditions that undermine minimum liv-  
6           ing standards and by providing an unfair means of  
7           competition to the detriment of employers who com-  
8           ply with the law.

9           (2) The existence of domestic and foreign work-  
10          ing conditions detrimental to fair competition and  
11          the maintenance of minimum standards of living  
12          necessary for health, efficiency, and general well-  
13          being of domestic and foreign workers are a con-  
14          tinuing and growing problem in the garment indus-  
15          try.

16          (3) Many consumers of garments wish to know  
17          whether the garments they purchase in interstate  
18          and international commerce are made under working  
19          conditions that the consumer deems morally repug-  
20          nant, indecent, violative of workers' human dignity  
21          and fundamental rights, or otherwise unacceptable.  
22          The absence of reliable and available information  
23          about such sweatshop conditions impairs consumers'  
24          capacity to freely and knowingly choose whether to

1 purchase garments made in sweatshops and sold into  
2 interstate and international commerce.

3 (4) The Congress concurs in the findings of the  
4 Comptroller General that most sweatshop employers  
5 violate the recordkeeping requirements of the Fair  
6 Labor Standards Act of 1938 (29 U.S.C. 201 et  
7 seq.).

8 (5) The failure of these employers to maintain  
9 adequate records, as well as the lack of access to  
10 such records by consumers, employees, consumer  
11 and employee representatives, and the public at  
12 large has adversely affected and continues to ad-  
13 versely affect the ability of employees and the De-  
14 partment of Labor to collect wages due to workers  
15 and to otherwise ensure compliance with the Act's  
16 wage and hour, child labor, and industrial homework  
17 provisions.

18 (6) These failures of recordkeeping and lack of  
19 access to records—combined with the inadequacy in  
20 the scope of information that manufacturers have  
21 been required to record and disclose—also obstruct  
22 consumers from freely and knowingly choosing  
23 whether to buy garments that are made under  
24 sweatshop conditions.

10           The Fair Labor Standards Act of 1938 (29 U.S.C.  
11 201 et seq.) is amended by inserting after section 11 the  
12 following new section:

15       “SEC. 11A. (a) An apparel manufacturer shall main-  
16   tain, for not less than 3 years, the following:

23 “(2) Records of the following, with respect to  
24 the apparel manufacturer and each contractor en-  
25 gaged by the apparel manufacturer:

1           “(A) The address of the headquarters,  
2           principal places of business, and place of incor-  
3           poration (or other legal registration) of the ap-  
4           parel manufacturer and each contractor.

5           “(B) A full description of each production  
6           run of the apparel manufacturer and of each  
7           production order placed by the apparel manu-  
8           facturer with the contractor, including descrip-  
9           tions of the items manufactured or otherwise  
10          transformed by the apparel manufacturer or  
11          contractor, and of the attendant processes of  
12          manufacturing and transformation, that are  
13          sufficiently detailed to enable consumers, em-  
14          ployees, consumer and employee representa-  
15          tives, and the public to readily identify—

16               “(i) the type, brand, style, or other  
17               identifying features of the particular final  
18               retail product to which a production run or  
19               production order applies;

20               “(ii) for each process of manufac-  
21               turing or transformation, the quantity of  
22               items manufactured or transformed by  
23               that process, the date of work performed,  
24               and the location of the facility where work  
25               was or is performed by employees of the

1 apparel manufacturer fulfilling a produc-  
2 tion run or of the contractor fulfilling the  
3 production order;

4 “(iii) the class or type of employees  
5 that performed each process of manufac-  
6 turing or transformation;

7 “(iv) the age of each such employee;  
8 and

9 “(v) for each such employee, identified  
10 by a unique number divulged only to that  
11 employee, the regular time and overtime  
12 hours worked (as determined under section  
13 13), the wages and benefits paid, and the  
14 method of calculating any piece rates or in-  
15 centive rates paid.

16 “(C) The names and addresses of all per-  
17 sons who are financially invested or interested,  
18 whether as partners, associates, profit sharers,  
19 shareholders, or through other forms of finan-  
20 cial investment, in the apparel manufacturer  
21 and each contractor engaged by the apparel  
22 manufacturer, together with the proportion or  
23 amount of their respective investments or inter-  
24 ests, except that in the case of a publicly traded

1 corporation a listing of principal officers shall  
2 suffice.

3 “(3) Identification of—

4 “(A) all applicable labor laws; and

5 “(B) every charge, complaint, petition, or  
6 other legal, administrative, or claim submitted,  
7 filed, served, or in any other manner brought by  
8 any party, and every action taken by any public  
9 authority or private arbitrator during the pre-  
10 vious 5 years, pertaining to compliance or non  
11 compliance by the apparel manufacturer and  
12 each contractor with the applicable labor laws.

13 “(b) Prior to, or concurrent with, an apparel manu-  
14 facturer’s placement of a production order with a con-  
15 tractor to manufacture apparel, the apparel manufacturer  
16 shall enter into a contract with the contractor that re-  
17 quires the contractor to provide to the apparel manufac-  
18 turer, in a timely manner, the records and information re-  
19 quired under subsection (a).

20 “(c) An apparel manufacturer shall diligently enforce  
21 any contract specified in section 11A(b), including initi-  
22 ating legal action against the contractor in an appropriate  
23 court.

24 “(d)(1) Beginning 1 year after the date of enactment  
25 of this section, an apparel manufacturer shall submit cop-

ies of the records and contracts required under subsection (a) and (b) to the Secretary, who shall make the information contained in those records and contracts fully and freely available to the public, through printed and electronic databases that are available via the Internet and readily searchable by content.

“(2) Not later than 1 year after enactment of this subsection, the Secretary shall promulgate regulations indicating the specific categories of data an apparel manufacturer and each of its contractors shall submit. The Secretary shall ensure that those categories are sufficient to ensure that the database required under paragraph (1) is readily searchable by name of apparel manufacturer and contractor, address of apparel manufacturer and contractor, date of each production run of the apparel manufacturer, date of each production order or purchase order between named apparel manufacturers and contractors, job categories of each apparel manufacturer and contractor for each production run, purchase order and production order, categories of violations and other information for each apparel manufacturer and contractor specified in subsection (a)(3)(B). The Secretary shall provide for the submission of such data through a standardized electronic means that is freely available to all apparel manufacturers and contractors.



1       “(e)(1)(A) Any employee of an apparel manufacturer,  
2 or of a contractor engaged by such manufacturer, any or-  
3 ganization representing the interests of consumers in the  
4 United States, and any labor organization representing  
5 employees in the garment industry in the United States  
6 or in the country in which the respective contractor does  
7 business may bring an action against such manufacturer  
8 or contractor for violation of such manufacturer’s obliga-  
9 tions under this section in an appropriate United States  
10 district court.

11       “(B) An apparel manufacturer or contractor found  
12 liable in an action under this paragraph shall be subject  
13 to an award of compensatory, consequential, and punitive  
14 damages, as well as equitable relief. Any such damages  
15 shall be awarded to, and apportioned among, the employ-  
16 ees of the contractor as to which the apparel manufacturer  
17 has failed to maintain information required under sub-  
18 section (a) or has failed to enter into or enforce contracts  
19 as required under subsection (b).

20       “(C) Plaintiffs in such actions shall be entitled to a  
21 trial by jury and to attorney fees and costs in the same  
22 manner as provided in section 16(b).

23       “(2) The compliance of an apparel manufacturer with  
24 this section, with respect to the information and records  
25 employees and homeworkers of each contractor engaged

1 by the apparel manufacturer and the contract and enforce-  
2 ment requirements of subsections (b) and (c), may be en-  
3 forced in the same manner as records and information the  
4 apparel manufacturer is required to make, keep, and pre-  
5 serve with respect to an employer's employees and  
6 homeworkers under section 11(a).

7 “(f) For purposes of this section:

8 “(1)(A) The term ‘apparel’ means a garment  
9 (or a section or component of such garment) de-  
10 signed or intended to be worn by men, women, chil-  
11 dren, or infants and to be sold or offered for sale.

12 “(B) Such term includes clothing, knit goods,  
13 hats, gloves, handbags, hosiery, ties, scarves, and  
14 belts.

15 “(C) Such term does not include  
16 premanufactured items, such as buttons, zippers,  
17 snaps, or studs.

18 “(2) The term ‘manufacture’, with respect to  
19 apparel, means to design, cut, sew, dye, wash, finish,  
20 assemble, press, or otherwise produce.

21 “(3)(A) The term ‘apparel manufacturer’  
22 means any person, in or affecting interstate or for-  
23 eign commerce, that—

24 “(i) manufactures apparel or engages in  
25 the business of selling apparel; or

1           “(ii) engages a contractor to manufacture  
2           apparel.

3           “(B) Such term does not include a contractor.

4           “(4) The term ‘contractor’ means—

5                 “(A) any person who contracts, directly or  
6                 indirectly, with an apparel manufacturer to  
7                 manufacture apparel (including any subcon-  
8                 tractor of such person) for such manufacturer;  
9                 and

10                “(B) any agent, distributor, or person de-  
11                scribed in subparagraph (A) through which  
12                homework is distributed or collected by such an  
13                agent, distributor, or contractor engaged by an  
14                apparel manufacturer.

15           “(5) The term ‘applicable labor laws’ means the  
16           Federal, State, or international laws or regulations  
17           to which an apparel manufacturer or contractor is  
18           subject in the area of labor and employment, includ-  
19           ing wages and hours, child labor, safety and health,  
20           discrimination, freedom of association and collective  
21           bargaining, work-related benefits and leaves, and  
22           any other workplace condition or aspect of the em-  
23           ployment relationship.

24           “(6) The term ‘appropriate court’ means, with  
25           respect to an apparel manufacturer or contractor—

1                   “(A) an appropriate United States district  
2                   court;

3                   “(B) a court of any State having jurisdic-  
4                   tion over the apparel manufacturer or con-  
5                   tractor; or

6                   “(C) a foreign court or tribunal having ju-  
7                   risdiction over the apparel manufacturer or con-  
8                   tractor.”.

9   **SEC. 4. CIVIL PENALTIES FOR VIOLATIONS OF RECORD-**  
10                   **KEEPING.**

11           Section 16 of the Fair Labor Standards Act of 1938  
12   (29 U.S.C. 216(e)) is amended by adding at the end the  
13   following:

14           “(f) Any person who fails to maintain or submit in-  
15   formation, records, or contracts as required under section  
16   11(c) and section 11A shall be subject to a civil penalty  
17   of \$5,000 for each employee to whom such records pertain,  
18   except that a person who willfully commits such a failure  
19   shall be liable for such civil penalty for each pay period  
20   in which the failure occurs. In addition to any other pen-  
21   alties provided by law, any person who submits fraudulent  
22   information, records, or contracts under section 11A shall  
23   be subject to a civil penalty of \$10,000 for the first such

1 fraudulent act and \$15,000 for each such subsequent  
2 fraudulent act.”.

○