

115TH CONGRESS
2D SESSION

H. R. 7089

To amend the Securities Exchange Act of 1934 to require certain companies to disclose information describing any measures the company has taken to identify and address conditions of forced labor, slavery, human trafficking, and the worst forms of child labor within the company's supply chains.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 23, 2018

Mrs. CAROLYN B. MALONEY of New York (for herself and Mr. SMITH of New Jersey) introduced the following bill; which was referred to the Committee on Financial Services

A BILL

To amend the Securities Exchange Act of 1934 to require certain companies to disclose information describing any measures the company has taken to identify and address conditions of forced labor, slavery, human trafficking, and the worst forms of child labor within the company's supply chains.

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 “Business Supply Chain
5 Transparency on Trafficking and Slavery Act of 2018”.

1 **SEC. 2. FINDINGS AND SENSE OF CONGRESS.**

2 (a) FINDINGS.—Congress finds the following:

3 (1) In 2014, the Department of Labor identi-
4 fied 136 goods from 74 countries around the world
5 made by forced labor and child labor.

6 (2) The United States is the world's largest im-
7 porter, and in the 21st century, investors, con-
8 sumers, and broader civil society increasingly de-
9 mand information about the human rights impact of
10 products in the United States market.

11 (3) Courts have ruled that consumers do not
12 have standing to bring a civil action in United
13 States courts for enforcement of a provision in the
14 Smoot Hawley Tariff Act of 1930 prohibiting impor-
15 tation of goods made with forced labor or convict
16 labor, and furthermore, the provision has a broad
17 exception for goods that cannot be produced in the
18 United States in sufficient quantities to meet the de-
19 mands of American consumers from tainted goods,
20 consequently, there are fewer than 40 enforcement
21 actions on record in the past 80 years.

22 (4) Mechanisms under Federal law to prevent
23 and punish perpetrators of forced labor, slavery,
24 human trafficking, and the worst forms of child
25 labor in the stream of commerce suffer from prob-
26 lems of limited scope, broad expectations, and lack

1 of available information about goods that are pro-
2 duced along supply chains tainted by these crimes
3 and imported by the United States.

4 (5) The Trafficking Victims Protection Reau-
5 thorization Act of 2003 (Public Law 108–193) to-
6 gether with the Trafficking Victims Protection Act
7 of 2005 (Public Law 109–164) provide for the ter-
8 mination of Federal contracts where a Federal con-
9 tractor or subcontractor engages in severe forms of
10 trafficking in persons or has procured a commercial
11 sex act during the period of time that the grant,
12 contract, or cooperative agreement is in effect, or
13 uses forced labor in the performance of the grant,
14 contract, or cooperative agreement. The Trafficking
15 Victims Protection Act of 2005 also provides United
16 States courts with criminal jurisdiction abroad over
17 Federal employees, contractors, or subcontractors
18 who participate in severe forms of trafficking in per-
19 sons or forced labor.

20 (6) Executive Order 13126, Prohibition of Ac-
21 quisition of Products Produced by Forced or Inden-
22 tured Child Labor, Executive Order 13627,
23 Strengthening Protections Against Trafficking In
24 Persons In Federal Contracts, and title XVII of the
25 National Defense Authorization Act for Fiscal Year

1 2013 (Public Law 112–239) have prohibited Federal
2 contractors, subcontractors, and their employees
3 from engaging in the following trafficking-related ac-
4 tivities: charging labor recruitment fees; confiscating
5 passports and other identity documents of workers;
6 and using fraudulent recruitment practices, includ-
7 ing failing to disclose basic information or making
8 material misrepresentations about the terms and
9 conditions of employment. Such Executive order and
10 Acts also require Federal contractors, subcontrac-
11 tors, and their employees to maintain an anti-traf-
12 ficking compliance plan that includes, among other
13 elements, a complaint mechanism and procedures to
14 prevent subcontractors at any tier in the supply
15 chain from engaging in trafficking in persons.

16 (b) SENSE OF CONGRESS.—It is the sense of Con-
17 gress that—

18 (1) forced labor, slavery, human trafficking,
19 and the worst forms of child labor are among the
20 most egregious forms of abuse that humans commit
21 against each other, for the sake of commercial prof-
22 it;

23 (2) the legislative and regulatory framework to
24 prevent goods produced by forced labor, slavery,
25 human trafficking, and the worst forms of child

1 labor from passing into the stream of commerce in
2 the United States is gravely inadequate;

3 (3) legislation is necessary to provide consumers
4 information on products that are free of child labor,
5 forced labor, slavery, and human trafficking; and

6 (4) through publicly available disclosures, busi-
7 nesses and consumers can avoid inadvertently pro-
8 moting or sanctioning these crimes through produc-
9 tion and purchase of raw materials, goods and fin-
10 ished products that have been tainted in the supply
11 chains.

12 **SEC. 3. DISCLOSURE OF INFORMATION RELATING TO EF-**
13 **FORTS TO COMBAT THE USE OF FORCED**
14 **LABOR, SLAVERY, TRAFFICKING IN PERSONS,**
15 **OR THE WORST FORMS OF CHILD LABOR.**

16 Section 13 of the Securities Exchange Act of 1934
17 (15 U.S.C. 78m) is amended by adding at the end the
18 following new subsection:

19 “(s) DISCLOSURES RELATING TO EFFORTS TO COM-
20 BAT THE USE OF FORCED LABOR, SLAVERY, TRAF-
21 FICKING IN PERSONS, OR THE WORST FORMS OF CHILD
22 LABOR.—

23 “(1) REGULATIONS.—Not later than 1 year
24 after the date of enactment of the Business Supply
25 Chain Transparency on Trafficking and Slavery Act

1 of 2018, the Commission, in consultation with the
2 Secretary of State, shall promulgate regulations to
3 require that any covered issuer required to file re-
4 ports with the Commission under this section to in-
5 clude annually in such reports, a disclosure whether
6 the covered issuer has taken any measures during
7 the year for which such reporting is required to
8 identify and address conditions of forced labor, slav-
9 ery, human trafficking, and the worst forms of child
10 labor within the covered issuer's supply chain, and
11 a description of such measures taken. Such disclo-
12 sure shall include, under the heading 'Policies to Ad-
13 dress Forced Labor, Slavery, Human Trafficking,
14 and the Worst Forms of Child Labor', information
15 describing to what extent, if any, the covered issuer
16 conducts any of the following activities:

17 “(A) Whether the covered issuer maintains
18 a policy to identify and eliminate the risks of
19 forced labor, slavery, human trafficking, and
20 the worst forms of child labor within the cov-
21 ered issuer's supply chain (such disclosure to
22 include the text of the policy or substantive de-
23 scription of the elements of the policy), and ac-
24 tions the covered issuer has taken pursuant to
25 or in the absence of such policy.

1 “(B) Whether the covered issuer maintains
2 a policy prohibiting its employees and employ-
3 ees of entities associated with its supply chain
4 from engaging in commercial sex acts with a
5 minor.

6 “(C) The efforts of the covered issuer to
7 evaluate and address the risks of forced labor,
8 slavery, human trafficking, and the worst forms
9 of child labor in the product supply chain. If
10 such efforts have been made, such disclosure
11 shall—

12 “(i) describe any risks identified with-
13 in the supply chain, and the measures
14 taken toward eliminating those risks;

15 “(ii) specify whether the evaluation
16 was or was not conducted by a third party;

17 “(iii) specify whether the process in-
18 cludes consultation with the independent
19 labor organizations (as such term is de-
20 fined in section 2 of the National Labor
21 Relations Act (29 U.S.C. 152)), workers’
22 associations, or workers within workplaces
23 and incorporates the resulting input or
24 written comments from such independent
25 labor organizations, workers’ associations,

1 or workers and if so, the disclosure shall
2 describe the entities consulted and specify
3 the method of such consultation; and

4 “(iv) specify the extent to which the
5 process covers entities within the supply
6 chain, including entities upstream in the
7 product supply chain and entities across
8 lines of products or services throughout the
9 covered issuer’s product manufacturing.

10 “(D) The efforts of the covered issuer to
11 ensure that audits of suppliers within the sup-
12 ply chain of the covered issuer are conducted
13 to—

14 “(i) investigate the working conditions
15 and labor practices of such suppliers;

16 “(ii) verify whether such suppliers
17 have in place appropriate systems to iden-
18 tify risks of forced labor, slavery, human
19 trafficking, and the worst forms of child
20 labor within their own supply chain; and

21 “(iii) evaluate whether such systems
22 are in compliance with the policies of the
23 covered issuer or efforts in absence of such
24 policies.

25 “(E) The efforts of the covered issuer to—

1 “(i) require suppliers in the supply
2 chain to attest that the manufacture of
3 materials incorporated into any product
4 and the recruitment of labor are carried
5 out in compliance with the laws regarding
6 forced labor, slavery, human trafficking,
7 and the worst forms of child labor;

8 “(ii) maintain internal accountability
9 standards, supply chain management, and
10 procurement systems, and reporting proce-
11 dures for employees, suppliers, contractors,
12 or other entities within its supply chain
13 failing to meet the covered issuer’s stand-
14 ards regarding forced labor, slavery,
15 human trafficking, and the worst forms of
16 child labor, including a description of such
17 standards, systems, and procedures;

18 “(iii) train the employees and man-
19 agement who have direct responsibility for
20 supply chain management on issues related
21 to forced labor, slavery, human trafficking,
22 and the worst forms of child labor, particu-
23 larly with respect to mitigating risks within
24 the supply chains of products; and

1 “(iv) ensure that labor recruitment
2 practices at all suppliers associated with
3 the supply chain comply with the covered
4 issuer’s policies or efforts in absence of
5 such policies for eliminating exploitive
6 labor practices that contribute to forced
7 labor, slavery, human trafficking, and the
8 worst forms of child labor, including by
9 complying with audits of labor recruiters
10 and disclosing the results of such audits.

11 “(F) The efforts of the covered issuer in
12 cases where forced labor, slavery, human traf-
13 ficking, and the worst forms of child labor have
14 been identified within the supply chain, to en-
15 sure that remedial action is provided to those
16 who have identified as victims, including sup-
17 port for programs designed to prevent the re-
18 currence of those events within the industry or
19 sector in which they have been identified.

20 “(2) REQUIREMENTS FOR AVAILABILITY OF IN-
21 FORMATION.—

22 “(A) DISCLOSURE ON COMPANY
23 WEBSITE.—The regulations promulgated under
24 paragraph (1) shall require that the required
25 information be disclosed by the covered issuer

1 on the Internet website of the covered issuer
2 through a conspicuous and easily understand-
3 able link to the relevant information that shall
4 be labeled ‘Global Supply Chain Transparency’.

5 “(B) DISCLOSURE ON COMMISSION
6 WEBSITE.—The Commission shall make avail-
7 able to the public in a searchable format on the
8 Commission’s website—

9 “(i) a list of covered issuers required
10 to disclose any measures taken by the com-
11 pany to identify and address conditions of
12 forced labor, slavery, human trafficking,
13 and the worst forms of child labor within
14 the covered issuer’s supply chain, as re-
15 quired by this subsection; and

16 “(ii) a compilation of the information
17 submitted under the rules issued under
18 paragraph (1).

19 “(3) DEFINITIONS.—As used in this sub-
20 section—

21 “(A) the term ‘covered issuer’ means an
22 issuer that has annual worldwide global receipts
23 in excess of \$100,000,000;

24 “(B) the terms ‘forced labor’, ‘slavery’, and
25 ‘human trafficking’ mean any labor practice or

1 human trafficking activity in violation of na-
2 tional and international standards, including
3 International Labor Organization Convention
4 No. 182, the Trafficking Victims Protection Act
5 of 2000 (Public Law 106–386), and acts that
6 would violate the criminal provisions related to
7 slavery and human trafficking under chapter 77
8 of title 18, United States Code, if they had
9 been committed within the jurisdiction of the
10 United States;

11 “(C) the term ‘remedial action’ means the
12 activities or systems that an issuer puts in place
13 to address non-compliance identified through
14 monitoring or verification, and may apply to in-
15 dividuals adversely affected by the non-compli-
16 ant conduct or address broader systematic proc-
17 esses;

18 “(D) the term ‘supply chain’, with respect
19 to a covered issuer disclosing the information
20 required under the regulations promulgated
21 under this section, means all labor recruiters,
22 suppliers of products, component parts of prod-
23 ucts, and raw materials used by such entity in
24 the manufacturing of such entity’s products

1 whether or not such entity has a direct relation-
2 ship with the supplier; and

3 “(E) the term ‘the worst forms of child
4 labor’ means child labor in violation of national
5 and international standards, including Inter-
6 national Labor Organization Convention No.
7 182.’”.

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