

104TH CONGRESS
2D SESSION

H. R. 4166

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

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 25, 1996

Mr. CLAY (for himself, Ms. Velázquez, Mr. MILLER of California, Mr. KILDEE, Mr. WILLIAMS, Mr. MARTINEZ, Mr. OWENS, Mr. PAYNE of New Jersey, Mrs. MINK of Hawaii, Mr. ANDREWS, Mr. BECERRA, Mr. SCOTT, Mr. GENE GREEN of Texas, Ms. WOOLSEY, Mr. FATTAH, Mr. ABERCROMBIE, Mr. BERMAN, Mr. BONIOR, Mr. BROWN of California, Mr. BROWN of Ohio, Mrs. CLAYTON, Mr. CONYERS, Mr. DELLUMS, Mr. DIXON, Mr. ENGEL, Mr. EVANS, Mr. FOGLIETTA, Mr. GONZALEZ, Mr. GUTIERREZ, Mr. HASTINGS of Florida, Mr. HILLIARD, Mr. HINCHEY, Mr. HOLDEN, Mr. JACKSON of Illinois, Mr. KANJORSKI, Mr. LANTOS, Mr. LEVIN, Mr. LIPINSKI, Ms. LOFGREN, Mr. MANTON, Mr. MASCARA, Mr. MOAKLEY, Mr. MORAN, Mr. OLVER, Mr. RAHALL, Mr. RANGEL, Ms. ROYBAL-ALLARD, Mr. SERRANO, Mr. THOMPSON, Mr. TORRES, Mr. VENTO, Mr. WISE, Mr. WYNN, and Mr. YATES) introduced the following bill; which was referred to the Committee on Economic and Educational Opportunities

A BILL

To amend the Fair Labor Standards Act of 1938 to provide for legal accountability for 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,*

1 **SECTION 1. SHORT TITLE AND REFERENCE.**

2 (a) **SHORT TITLE.**—This Act may be cited as the
3 “Stop Sweatshops Act of 1996”.

4 (b) **REFERENCE.**—Whenever in this Act an amend-
5 ment or repeal is expressed in terms of an amendment
6 to, or repeal of, a section or other provision, the reference
7 shall be considered to be made to a section or other provi-
8 sion of the Fair Labor Standards Act of 1938.

9 **SEC. 2. FINDINGS.**

10 The Congress makes the following findings:

11 (1) The production of garments in violation of
12 minimum labor standards burdens commerce and
13 the free flow of goods in commerce by spreading and
14 perpetuating labor conditions that undermine mini-
15 mum living standards and by providing an unfair
16 means of competition to the detriment of employers
17 who comply with the law.

18 (2) The existence of working conditions det-
19 rimental to fair competition and the maintenance of
20 minimum standards of living necessary for health,
21 efficiency, and general well-being of workers are a
22 continuing and growing problem in the domestic gar-
23 ment industry.

24 (3) The Congress concurs in the findings of the
25 Comptroller General that most sweatshop employers
26 violate the recordkeeping requirements of the Fair

1 Labor Standards Act of 1938 and that the failure
2 of such employers to maintain adequate records has
3 and continues to adversely affect the ability of the
4 Department of Labor to collect wages due to work-
5 ers.

6 (4) The amendment of the Fair Labor Stand-
7 ards Act of 1938 to provide for legal responsibility
8 on the part of manufacturers for compliance with
9 such Act's wage and hour, child labor, and industrial
10 homework provisions by contractors in the garment
11 industry and to provide civil penalties for violations
12 of that Act's recordkeeping requirements is nec-
13 essary to promote fair competition and working con-
14 ditions that are not detrimental to the maintenance
15 of health, efficiency, and general well-being of work-
16 ers in the garment industry.

17 **SEC. 3. LEGAL RESPONSIBILITY FOR COMPLIANCE WITH**
18 **WAGE AND HOUR PROVISIONS IN THE GAR-**
19 **MENT INDUSTRY.**

20 (a) AMENDMENT.—The Fair Labor Standards Act of
21 1938 is amended by adding after section 14 the following:

22 “LEGAL RESPONSIBILITY FOR COMPLIANCE IN THE
23 GARMENT INDUSTRY WITH SECTIONS 6 AND 7

24 “SEC. 14A. (a) Every manufacturer engaged in the
25 garment industry who contracts to have garment manu-

1 facturing operations performed by another person as a
2 contractor—

3 “(1) shall be civilly liable, with respect to those
4 garment manufacturing operations, to the same ex-
5 tent as the contractor for any violation by the con-
6 tractor of section 6 (except for violations of sub-
7 section (d)) or 7, for any violation by the contractor
8 of the provisions of section 11 regulating, restrict-
9 ing, or prohibiting industrial homework, and for vio-
10 lation by the contractor of section 12; and

11 “(2) shall be subject to the same civil penalties
12 assessed against the contractor for violations of such
13 sections.

14 “(b) For purposes of this section:

15 “(1) The term ‘garment industry’ means the
16 designing, cutting, sewing, dyeing, washing, finish-
17 ing, assembling, pressing, or otherwise producing
18 men’s, women’s, children’s, or infants’ apparel, in-
19 cluding clothing, knit goods, hats, gloves, handbags,
20 hosiery, ties, scarves, and belts, or a section or com-
21 ponent of apparel, except for pre-manufactured
22 items such as buttons, zippers, snaps, and studs, de-
23 signed or intended to be worn by any individual
24 which is to be sold or offered for sale.

1 “(2) The term ‘manufacturer’ means any per-
2 son who (A) contracts, directly or indirectly through
3 an intermediary or otherwise, with a contractor to
4 perform the cutting, sewing, dyeing, washing, finish-
5 ing, assembling, pressing, or otherwise producing
6 any men’s, women’s, children’s, or infants’ apparel,
7 including clothing, knit goods, hats, gloves, hand-
8 bags, hosiery, ties, scarves, and belts, or a section or
9 component of apparel, except for pre-manufactured
10 items such as buttons, zippers, snaps, and studs, de-
11 signed or intended to be worn by any individual
12 which is to be sold or offered for sale, including a
13 retailer engaged in such activities, or (B) designs,
14 cuts, sews, dyes, washes, finishes, assembles, press-
15 es, or otherwise produces or is responsible for the
16 production of any men’s, women’s, children’s, or in-
17 fants’ apparel, including clothing, knit goods, hats,
18 gloves, handbags, hosiery, ties, scarves, and belts, or
19 a section or component of apparel, except for pre-
20 manufactured items such as buttons, zippers, snaps,
21 and studs, designed or intended to be worn by any
22 individual which is to be sold or offered for sale.

23 “(3) The term ‘contractor’ means any person
24 who contracts, directly or indirectly through an
25 intermediary or otherwise, with a manufacturer to

1 perform the cutting, sewing, dyeing, washing, finish-
2 ing, assembling, pressing, or otherwise producing
3 any men's, women's, children's, or infants' apparel,
4 including clothing, knit goods, hats, gloves, hand-
5 bags, hosiery, ties, scarves, and belts, or a section or
6 component of apparel, except for pre-manufactured
7 items such as buttons, zippers, snaps, and studs, de-
8 signed or intended to be worn by any individual
9 which is to be sold or offered for sale.

10 “(4) The term ‘retailer’ means any person en-
11 gaged in the sale of apparel to the ultimate
12 consumer for personal use.”.

13 (b) LIABILITY TO EMPLOYEES.—Section 16 (29
14 U.S.C. 216) is amended—

15 (1) in subsection (b), by adding after the first
16 sentence the following: “A manufacturer in the gar-
17 ment industry (as defined in section 14A(b)(2)) shall
18 also be jointly and severally liable to such an em-
19 ployee to the same extent as the contractor in the
20 garment industry (as defined in section 14A(b)(3))
21 who employed such employee if the contractor vio-
22 lated section 6 (other than subsection (d)) or 7 in
23 the production of apparel or components of apparel
24 for such manufacturer.”;

1 (2) in subsection (b), by inserting in the last
2 sentence “or by a manufacturer in the garment in-
3 dustry” after “by an employer”; and

4 (3) in subsection (c)—

5 (A) by striking “first sentence” and insert-
6 ing “first or second sentences”; and

7 (B) by inserting “or by a manufacturer in
8 the garment industry” after “liable”

9 **SEC. 4. RECORDKEEPING.**

10 Section 16(e) (29 U.S.C. 216(e)) is amended by add-
11 ing after the first sentence the following: “Any person who
12 fails to establish, maintain, and preserve payroll records
13 as required under section 11(c) shall be subject to a civil
14 penalty of not to exceed \$1000 for each employee who was
15 the subject of such a violation. The Secretary may, in the
16 Secretary’s discretion, compute civil penalties under this
17 subsection for each pay period for willful violations. Any
18 person who submits fraudulent payroll records to the
19 agencies enforcing this Act in any of its investigations or
20 hearings or as evidence in a court action, which records
21 conceal the actual hours of labor worked by employees or
22 the violation of section 6, 7, 11(d), or 12 shall be subject
23 to a civil penalty of \$10,000 per act of fraud and \$15,000
24 per act of fraud for a second offense.

1 **SEC. 5. EFFECTIVE DATE.**

2 The amendments made by this Act shall take effect
3 upon the expiration of 30 days from the date of its enact-
4 ment.

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