

119TH CONGRESS
1ST SESSION

S. _____

To ensure that Federal contractors comply with child labor laws, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. HAWLEY (for himself and Mr. BOOKER) introduced the following bill; which was read twice and referred to the Committee on

A BILL

To ensure that Federal contractors comply with child labor laws, 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 “Preventing Child
5 Labor Exploitation in Federal Contracting Act”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

8 (1) APPROPRIATE COMMITTEES OF CON-
9 GRESS.—The term “appropriate committees of Con-
10 gress” means—

1 (A) the Committee on Health, Education,
2 Labor, and Pensions of the Senate; and

3 (B) the Committee on Education and
4 Workforce of the House of Representatives.

5 (2) EXECUTIVE AGENCY.—The term “executive
6 agency” has the meaning given such term in section
7 133 of title 41, United States Code.

8 (3) SECRETARY.—The term “Secretary” means
9 the Secretary of Labor.

10 **SEC. 3. PROMOTION OF WORKPLACE ACCOUNTABILITY.**

11 (a) REQUIRED REPRESENTATIONS AND CERTIFI-
12 CATIONS.—Not later than 18 months after the date of en-
13 actment of this Act, the Federal Acquisition Regulatory
14 Council shall amend the Federal Acquisition Regulation
15 to—

16 (1) require any entity that enters into a con-
17 tract with an executive agency to represent, on an
18 annual basis and to the best of the knowledge of the
19 entity, whether, within the preceding 3-year period,
20 any final administrative merits determination, arbi-
21 tral award or decision, or civil judgment, as defined
22 in coordination with the Secretary, has been issued
23 against the entity for any violation of section 12 of
24 the Fair Labor Standards Act of 1938 (29 U.S.C.
25 212), relating to child labor;

1 (2) provide (through a revision of the Certifi-
2 cation Regarding Knowledge of Child Labor for
3 Listed End Products as described in section 52.222-
4 18 of the Federal Acquisition Regulation or through,
5 if necessary, another certification) a requirement
6 that an offeror—

7 (A) certify, to the best of the knowledge of
8 the offeror, whether, within the preceding 3-
9 year period, any final administrative merits de-
10 termination, arbitral award or decision, or civil
11 judgment, as defined in coordination with the
12 Secretary, for a violation described in para-
13 graph (1) has been issued against the offeror;
14 and

15 (B) require such a certification from each
16 of the subcontractors or service providers to be
17 used in performing, or that were considered for
18 the performance of, the contract for which the
19 offeror is submitting an offer and provide such
20 certifications with the certification by the offer-
21 or under subparagraph (A);

22 (3) prohibit executive agencies from awarding a
23 contract to—

24 (A) an entity that provides an affirmative
25 response to a representation under paragraph

1 (1) and has failed to implement any corrective
2 measure negotiated under subsection (b); or

3 (B) an offeror that—

4 (i) provides an affirmative response to
5 a certification under paragraph (2) and
6 has failed to implement any corrective
7 measure negotiated under subsection (b);
8 or

9 (ii) intends to use a subcontractor or
10 service provider in the performance of the
11 contract that was identified as having a
12 violation in such an affirmative response
13 and has failed to implement any corrective
14 measure negotiated under such subsection;

15 (4) require the name and address of each entity
16 that provides an affirmative response to a represen-
17 tation under paragraph (1), and the name and ad-
18 dress of each offeror, subcontractor, or service pro-
19 vider identified as having a violation in an affirma-
20 tive response to a certification under paragraph (2),
21 to be referred to the Secretary for purposes of nego-
22 tiating with that entity, offeror, subcontractor, or
23 service provider on corrective measures under sub-
24 section (b) and preparing the list and conducting

1 suspension and debarment proceedings under sub-
2 section (c);

3 (5) provide procedures for consultation with the
4 Secretary by an offeror described in paragraph (2)
5 to assist the offeror in evaluating the information on
6 compliance with section 12 of the Fair Labor Stand-
7 ards Act of 1938, relating to child labor, submitted
8 to the offeror by a subcontractor or service provider
9 pursuant to such paragraph; and

10 (6) make any other changes necessary to imple-
11 ment the requirements of this Act.

12 (b) CORRECTIVE MEASURES.—An entity that makes
13 an affirmative response to a representation under sub-
14 section (a)(1) or offeror, subcontractor, or service provider
15 that makes an affirmative response in a certification under
16 subsection (a)(2)—

17 (1) shall update the representation or certifi-
18 cation, respectively, based on any steps taken by the
19 entity, offeror, subcontractor, or service provider to
20 correct a violation of or improve compliance with
21 section 12 of the Fair Labor Standards Act of 1938,
22 relating to child labor, including any agreements en-
23 tered into with the Secretary; and

24 (2) may negotiate with the Secretary regarding
25 corrective measures that the entity, offeror, subcon-

1 tractor, or service provider may take in order to
2 avoid being placed on the list under subsection (c)
3 and referred for suspension and debarment pro-
4 ceedings under such subsection, in the case the enti-
5 ty, offeror, subcontractor, or service provider meets
6 the criteria for such list and proceedings under such
7 subsection.

8 (c) LIST OF INELIGIBLE ENTITIES.—

9 (1) IN GENERAL.—For each calendar year be-
10 ginning with the first calendar year that begins after
11 the date that is 2 years after the date of enactment
12 of this Act, the Secretary, in coordination with other
13 executive agencies as necessary, shall prepare a list
14 and conduct suspension and debarment proceedings
15 for—

16 (A) each entity that provided an affirma-
17 tive response to a representation under sub-
18 section (a)(1) and has failed to implement any
19 corrective measure negotiated under subsection
20 (b) for the year of the list; and

21 (B) each offeror, subcontractor, or service
22 provider that was identified as having a viola-
23 tion in an affirmative response to a certification
24 under subsection (a)(2) and has failed to imple-

1 ment any corrective measure negotiated under
2 subsection (b) for the year of the list.

3 (2) INELIGIBILITY.—

4 (A) IN GENERAL.—The head of an execu-
5 tive agency shall not, during the period of time
6 described in subparagraph (B), solicit offers
7 from, award contracts to, or consent to sub-
8 contracts with any entity, offeror, subcon-
9 tractor, or service provider that is listed—

10 (i) under paragraph (1); and

11 (ii) as an active exclusion in the Sys-
12 tem for Award Management.

13 (B) PERIOD OF TIME.—The period of time
14 described in this subparagraph is a period of
15 time determined by the suspension and debar-
16 ment official that is not less than 4 years from
17 the date on which the entity, offeror, subcon-
18 tractor, or service provider is listed as an exclu-
19 sion in the System for Award Management.

20 (3) ADDITIONAL CONSIDERATIONS.—In deter-
21 mining the entities to consider for suspension and
22 debarment proceedings under paragraph (1), the
23 Secretary shall ensure procedures for such deter-
24 mination are consistent with the procedures set forth
25 in subpart 9.4 of the Federal Acquisition Regulation

1 for the suspension and debarment of Federal con-
2 tractors.

3 (d) PENALTIES FOR FAILURE TO REPORT.—

4 (1) OFFENSE.—It shall be unlawful for a per-
5 son to knowingly fail to make a representation or
6 certification required under paragraph (1) or (2), re-
7 spectively, of subsection (a).

8 (2) PENALTY.—

9 (A) IN GENERAL.—A violation of para-
10 graph (1) shall be referred by any executive
11 agency with knowledge of such violation for sus-
12 pension and debarment proceedings, to be con-
13 ducted by the suspension and debarment official
14 of the Department of Labor.

15 (B) LOSS TO GOVERNMENT.—A violation
16 of paragraph (1) shall be subject to the pen-
17 alties under sections 3729 through 3733 of title
18 31, United States Code (commonly known as
19 the “False Claims Act”).

20 (e) ANNUAL REPORTS TO CONGRESS.—For each cal-
21 endar year beginning with the first calendar year that be-
22 gins after the date that is 2 years after the date of enact-
23 ment of this Act, the Secretary shall submit to the appro-
24 priate committees of Congress, and make publicly avail-
25 able on a public website, a report that includes—

1 (1) the number of entities, offerors, subcontractors,
2 tors, or service providers on the list under subsection
3 (c) for the year of the report;

4 (2) the number of entities, offerors, subcontractors,
5 tors, or service providers that agreed to take correc-
6 tive measures under subsection (b) for such year;

7 (3) the amount of the applicable contracts for
8 the entities, offerors, subcontractors, or service pro-
9 viders described in paragraph (1) or (2); and

10 (4) an assessment of the effectiveness of the
11 implementation of this Act for such year.

12 **SEC. 4. CIVIL PENALTIES COLLECTED FOR CHILD LABOR**
13 **LAW VIOLATIONS.**

14 (a) AMOUNTS.—

15 (1) IN GENERAL.—Section 16(e)(1)(A) of the
16 Fair Labor Standards Act of 1938 (29 U.S.C.
17 216(e)(1)(A)) is amended—

18 (A) by aligning the left margins of clauses
19 (i) and (ii) with the left margin of clause (i) of
20 section 16(e)(1)(B) of the Fair Labor Stand-
21 ards Act of 1938 (29 U.S.C. 216(e)(1)(B));

22 (B) in clause (i), by striking “\$11,000”
23 and inserting “\$100,000”; and

24 (C) in clause (ii), by striking “\$50,000”
25 and inserting “\$500,000”.

1 (2) EFFECTIVE DATE.—The amendments made
2 by paragraph (1) shall be applicable to violations oc-
3 curring on or after the date of enactment of this
4 Act.

5 (b) APPLICATION OF PENALTIES.—Section 16(e)(5)
6 of the Fair Labor Standards Act of 1938 (29 U.S.C.
7 216(e)(5)) is amended—

8 (1) by striking “Except” and all that follows
9 through “sums” and inserting “Sums”; and

10 (2) by striking the second sentence.

11 **SEC. 5. TRAINING WITH RESPECT TO CHILD LABOR LAW**
12 **VIOLATIONS.**

13 The Fair Labor Standards Act of 1938 (29 U.S.C.
14 201 et seq.) is amended by inserting after section 18D
15 (42 U.S.C. 218d) the following:

16 **“SEC. 18E. TRAINING WITH RESPECT TO CHILD LABOR LAW**
17 **VIOLATIONS.**

18 “The Secretary shall establish programs to provide
19 training for relevant personnel at the Department of
20 Labor and other executive agencies, including the Depart-
21 ment of Health and Human Services and the Department
22 of Homeland Security, on identifying and preventing viola-
23 tions of section 12.”.

1 **SEC. 6. GAO STUDY.**

2 Not later than 2 years after the date of enactment
3 of this Act, the Comptroller General of the United States
4 shall conduct a study on the prevalence of violations of
5 section 12 of the Fair Labor Standards Act of 1938 (29
6 U.S.C. 212), relating to child labor, among Federal con-
7 tractors and submit to the appropriate committees of Con-
8 gress a report with the findings of the study.

9 **SEC. 7. NO ADDITIONAL FUNDS.**

10 No additional funds are authorized to be appro-
11 priated for the purpose of carrying out this Act.