

Calendar No. 695

118TH CONGRESS
2D SESSION**S. 3139****[Report No. 118–289]**

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

IN THE SENATE OF THE UNITED STATES

OCTOBER 26, 2023

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

DECEMBER 12, 2024

Reported by Mr. PETERS, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]**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 Act”.

1 **SEC. 2. PROMOTION OF WORKPLACE ACCOUNTABILITY.**

2 (a) **REQUIRED DISCLOSURES.**—Not later than 180
 3 days after the date of the enactment of this Act, the Fed-
 4 eral Acquisition Regulatory Council shall amend the Fed-
 5 eral Acquisition Regulation to require any entity that en-
 6 ters into a contract with an executive agency to disclose
 7 to the Secretary of Labor, on an annual basis and to the
 8 best of the knowledge of the entity, whether, within the
 9 preceding 3-year period, any administrative merits deter-
 10 mination, arbitral award or decision, or civil judgment, as
 11 defined in regulations issued by the Secretary of Labor,
 12 has been issued against the entity, or any subcontractor
 13 of the entity, for violations of section 12 of the Fair Labor
 14 Standards Act of 1938 (29 U.S.C. 212).

15 (b) **CONSULTATION.**—The Secretary of Labor shall
 16 be available, as appropriate, for consultation with an enti-
 17 ty described in subsection (a) to assist the entity in evalu-
 18 ating the information on compliance with section 12 of the
 19 Fair Labor Standards Act of 1938 submitted to the entity
 20 by a subcontractor pursuant to such subsection.

21 (c) **CORRECTIVE MEASURES.**—On an annual basis,
 22 the Secretary of Labor—

23 (1) shall provide an entity that makes a disclo-
 24 sure pursuant to subsection (a) an opportunity to re-
 25 port any steps taken by the entity, or any subcon-
 26 tractor of the entity, to correct violations of or im-

1 prove compliance with section 12 of the Fair Labor
 2 Standards Act of 1938, including any agreements
 3 entered into with an enforcement agency; and

4 (2) may negotiate with such entity corrective
 5 measures that the entity or any subcontractor of the
 6 entity may take in order to avoid having the entity
 7 placed on the list under subsection (d).

8 (d) 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 of Labor shall prepare,
 13 and submit to all executive agencies, a list of each
 14 entity that shall be ineligible for a contract with an
 15 executive agency for that year based on—

16 (A) serious, repeated, or pervasive viola-
 17 tions of section 12 of the Fair Labor Standards
 18 Act of 1938 committed by the entity or any
 19 subcontractor of the entity; or

20 (B) the failure of such entity, or any sub-
 21 contractor of such entity, to complete any cor-
 22 rective measure negotiated under subsection (c).

23 (2) INELIGIBILITY.—The head of an executive
 24 agency shall not solicit a contract from any entity on

1 the list under paragraph (1) that is in effect for a
 2 year for that year or any of the subsequent 4 years.

3 ~~(c) CRIMINAL PENALTY FOR FAILURE TO RE-~~
 4 ~~PORT.—~~

5 (1) OFFENSE.—It shall be unlawful for an enti-
 6 ty to knowingly fail to make a disclosure required
 7 under subsection (a).

8 (2) PENALTY.—

9 (A) IN GENERAL.—A violation of para-
 10 graph (1) shall be treated as a violation of sec-
 11 tion 1031(a) of title 18, United States Code.

12 (B) GROSS LOSS TO GOVERNMENT; GROSS
 13 GAIN TO DEFENDANT.—For purposes of apply-
 14 ing section 1031 of title 18, United States
 15 Code, to a violation of paragraph (1) of this
 16 subsection, the amount that an executive agen-
 17 cy pays an entity that violates such paragraph
 18 (1) under a contract described in subsection (a)
 19 of this section shall be treated as the gross loss
 20 to the Government or the gross gain to the de-
 21 fendant.

22 (f) ANNUAL REPORTS TO CONGRESS.—For each cal-
 23 endar year beginning with the first calendar year that be-
 24 gins after the date that is 2 years after the date of enact-
 25 ment of this Act, each executive agency shall submit to

1 Congress, and make publicly available on the website of
 2 the executive agency, a report that includes—

3 (1) the number of entities on the list under sub-
 4 section (d) for the year of the report;

5 (2) the number of entities that agreed to take
 6 corrective measures under subsection (e) for such
 7 year;

8 (3) the amount of the applicable contracts for
 9 the entities 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 ~~(g) DEFINITION OF EXECUTIVE AGENCY.—~~In this
 13 section, the term “executive agency” has the meaning
 14 given such term in section 133 of title 41, United States
 15 Code.

16 **SEC. 3. GAO STUDY.**

17 Not later than 2 years after the date of the enact-
 18 ment of this Act, the Comptroller General of the United
 19 States shall conduct a study on the prevalence and nature
 20 of child labor among Federal contractors and submit to
 21 Congress a report with the findings of the study.

22 **SECTION 1. SHORT TITLE.**

23 *This Act may be cited as the “Preventing Child Labor*
 24 *Exploitation in Federal Contracting Act”.*

1 **SEC. 2. DEFINITIONS.**

2 *In this Act:*

3 (1) *APPROPRIATE COMMITTEES OF CONGRESS.*—

4 *The term “appropriate committees of Congress”*
 5 *means—*

6 (A) *the Committee on Homeland Security*
 7 *and Governmental Affairs of the Senate; and*

8 (B) *the Committee on Oversight and Ac-*
 9 *countability of the House of Representatives.*

10 (2) *EXECUTIVE AGENCY.*—*The term “executive*
 11 *agency” has the meaning given such term in section*
 12 *133 of title 41, United States Code.*

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

14 (a) *REQUIRED REPRESENTATIONS AND CERTIFI-*
 15 *CATIONS.*—*Not later than 18 months after the date of enact-*
 16 *ment of this Act, the Federal Acquisition Regulatory Coun-*
 17 *cil shall amend the Federal Acquisition Regulation to—*

18 (1) *require any entity that enters into a contract*
 19 *with an executive agency to represent, on an annual*
 20 *basis and to the best of the knowledge of the entity,*
 21 *whether, within the preceding 3-year period, any*
 22 *final administrative merits determination, arbitral*
 23 *award or decision, or civil judgment, as defined in co-*
 24 *ordination with the Secretary of Labor, has been*
 25 *issued against the entity for any violation of section*

1 12 of the Fair Labor Standards Act of 1938 (29
2 U.S.C. 212), relating to child labor;

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

9 (A) certify, to the best of the knowledge of
10 the entity, whether, within the preceding 3-year
11 period, any final administrative merits deter-
12 mination, arbitral award or decision, or civil
13 judgment, as defined in coordination with the
14 Secretary of Labor, for a violation described in
15 paragraph (1) has been issued against the entity;
16 and

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

24 (3) prohibit executive agencies from awarding a
25 contract to—

1 (A) an entity that provides an affirmative
 2 response to a representation under paragraph
 3 (1) and has failed to implement any corrective
 4 measure negotiated under subsection (b); or

5 (B) an offeror that—

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

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

16 (4) require the name and address of each entity
 17 that provides an affirmative response to a representa-
 18 tion under paragraph (1), and the name and address
 19 of each offeror, subcontractor, or service provider
 20 identified as having violations in an affirmative re-
 21 sponse to a certification under paragraph (2), to be
 22 referred to the Secretary of Labor for purposes of ne-
 23 gotiating with that entity, offeror, subcontractor, or
 24 service provider on corrective measures under sub-
 25 section (b) and preparing the list and conducting sus-

1 *pension and debarment proceedings under subsection*
 2 *(c);*

3 *(5) provide procedures for consultation with the*
 4 *Secretary of Labor by an offeror described in para-*
 5 *graph (2) to assist the offeror in evaluating the infor-*
 6 *mation on compliance with section 12 of the Fair*
 7 *Labor Standards Act of 1938, relating to child labor,*
 8 *submitted to the offeror by a subcontractor or service*
 9 *provider 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 violations of or improve compliance with sec-*
 21 *tion 12 of the Fair Labor Standards Act of 1938, re-*
 22 *lating to child labor, including any agreements en-*
 23 *tered into with the Secretary of Labor; and*

24 *(2) may negotiate with the Secretary of Labor*
 25 *regarding corrective measures that the entity, offeror,*

1 subcontractor, or service provider may take in order
 2 to 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 entity,
 5 offeror, subcontractor, or service provider meets the
 6 criteria for such list and proceedings under such sub-
 7 section.

8 *(c) LIST OF INELIGIBLE ENTITIES.—*

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

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

21 *(B) each offeror, subcontractor, or service*
 22 *provider that was identified as having violations*
 23 *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 executive*
 5 *agency shall not, during the period of time de-*
 6 *scribed in subparagraph (B), solicit offers from,*
 7 *award contracts to, or consent to subcontracts*
 8 *with any entity, offeror, subcontractor, or service*
 9 *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 de-*
 22 *barment proceedings under paragraph (1), the Sec-*
 23 *retary of Labor 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 contrac-*
 2 *tors.*

3 *(d) PENALTIES FOR FAILURE TO REPORT.—*

4 *(1) OFFENSE.—It shall be unlawful for a person*
 5 *to knowingly fail to make a representation or certifi-*
 6 *cation required under paragraph (1) or (2), respec-*
 7 *tively, of subsection (a).*

8 *(2) PENALTY.—*

9 *(A) IN GENERAL.—A violation of paragraph*
 10 *(1) shall be referred by any executive agency*
 11 *with knowledge of such violation for suspension*
 12 *and debarment proceedings, to be conducted by*
 13 *the suspension and debarment official of the De-*
 14 *partment of Labor.*

15 *(B) LOSS TO GOVERNMENT.—A violation of*
 16 *paragraph (1) shall be subject to the penalties*
 17 *under sections 3729 through 3733 of title 31,*
 18 *United States Code (commonly known as the*
 19 *“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 enactment*
 23 *of this Act, the Secretary of Labor shall submit to the appro-*
 24 *priate committees of Congress, and make publicly available*
 25 *on a public website, a report that includes—*

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

4 (2) *the number of entities, offerors, subcontractors, or service providers that agreed to take corrective*
 5 *measures under subsection (b) for such year;*

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

10 (4) *an assessment of the effectiveness of the im-*
 11 *plementation of this Act for such year.*

12 **SEC. 4. GAO STUDY.**

13 *Not later than 2 years after the date of enactment of*
 14 *this Act, the Comptroller General of the United States shall*
 15 *conduct a study on the prevalence of violations of section*
 16 *12 of the Fair Labor Standards Act of 1938 (29 U.S.C.*
 17 *212), relating to child labor, among Federal contractors and*
 18 *submit to the appropriate committees of Congress a report*
 19 *with the findings of the study.*

20 **SEC. 5. USE OF CIVIL PENALTIES COLLECTED FOR CHILD**
 21 **LABOR LAW VIOLATIONS.**

22 *Section 16(e)(5) of the Fair Labor Standards Act of*
 23 *1938 (29 U.S.C. 216(e)(5)) is amended—*

24 (1) *by striking “Except” and all that follows*
 25 *through “sums” and inserting “Sums”; and*

1 (2) *by striking the second sentence.*

2 **SEC. 6. NO ADDITIONAL FUNDS.**

3 *No additional funds are authorized to be appropriated*

4 *for the purpose of carrying out this Act.*

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