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SB-657 Human trafficking. (2009-2010)

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Senate Bill No. 657

CHAPTER 556

An act to add Section 1714.43 to the Civil Code, and to add Section 19547.5 to the Revenue and Taxation Code, relating to human trafficking.

[Approved by Governor September 30, 2010. Filed with Secretary of State September 30, 2010.]

LEGISLATIVE COUNSEL'S DIGEST

SB 657, Steinberg. Human trafficking.

The federal Victims of Trafficking and Violence Protection Act of 2000 establishes an Interagency Task Force to Monitor and Combat Trafficking, as specified.

Existing state law makes human trafficking a crime. Existing state law also allows a victim of human trafficking to bring a civil action for actual damages, compensatory damages, punitive damages, injunctive relief, any combination of those, or any other appropriate relief.

Existing law generally regulates various business activities and practices, including those of retail sellers and manufacturers of products.

This bill would enact the California Transparency in Supply Chains Act of 2010, and would, beginning January 1, 2012, require retail sellers and manufacturers doing business in the state to disclose their efforts to eradicate slavery and human trafficking from their direct supply chains for tangible goods offered for sale, as specified. That provision would not apply to a retail seller or manufacturer having less than \$100,000,000 in annual worldwide gross receipts. The bill would also make a specified statement of legislative intent regarding slavery and human trafficking. The bill would also require the Franchise Tax Board to make available to the Attorney General a list of retail sellers and manufacturers required to disclose efforts to eradicate slavery and human trafficking pursuant to that provision, as specified.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. This act shall be known, and may be cited, as the California Transparency in Supply Chains Act of 2010.

The Legislature finds and declares the following:

SEC. 2. (a) Slavery and human trafficking are crimes under state, federal, and international law.

(b) Slavery and human trafficking exist in every country, including the United States, and the State of California.

(c) As a result of the criminal natures of slavery and human trafficking, these crimes are often hidden from view and are difficult to uncover and track.

(d) In recent years, significant legislative efforts have been made to capture and punish the perpetrators of these crimes.

(e) Significant legislative efforts have also been made to ensure that victims are provided with necessary protections and rights.

(f) Legislative efforts to address the market for goods and products tainted by slavery and trafficking have been lacking, the market being a key impetus for these crimes.

(g) In September 2009, the United States Department of Labor released a report required by the Trafficking Victims Protection Reauthorization Acts of 2005 and 2008 which named 122 goods from 58 countries that are believed to be produced by forced labor or child labor in violation of international standards.

(h) Consumers and businesses are inadvertently promoting and sanctioning these crimes through the purchase of goods and products that have been tainted in the supply chain.

(i) Absent publicly available disclosures, consumers are at a disadvantage in being able to distinguish companies on the merits of their efforts to supply products free from the taint of slavery and trafficking. Consumers are at a disadvantage in being able to force the eradication of slavery and trafficking by way of their purchasing decisions.

(j) It is the policy of this state to ensure large retailers and manufacturers provide consumers with information regarding their efforts to eradicate slavery and human trafficking from their supply chains, to educate consumers on how to purchase goods produced by companies that responsibly manage their supply chains, and, thereby, to improve the lives of victims of slavery and human trafficking.

SEC. 3. Section 1714.43 is added to the Civil Code, to read:

1714.43. (a) (1) Every retail seller and manufacturer doing business in this state and having annual worldwide gross receipts that exceed one hundred million dollars (\$100,000,000) shall disclose, as set forth in subdivision (c), its efforts to eradicate slavery and human trafficking from its direct supply chain for tangible goods offered for sale.

(2) For the purposes of this section, the following definitions shall apply:

(A) "Doing business in this state" shall have the same meaning as set forth in Section 23101 of the Revenue and Taxation Code.

(B) "Gross receipts" shall have the same meaning as set forth in Section 25120 of the Revenue and Taxation Code.

(C) "Manufacturer" means a business entity with manufacturing as its principal business activity code, as reported on the entity's tax return filed under Part 10.2 (commencing with Section 18401) of Division 2 of the Revenue and Taxation Code.

(D) "Retail seller" means a business entity with retail trade as its principal business activity code, as reported on the entity's tax return filed under Part 10.2 (commencing with Section 18401) of Division 2 of the Revenue and Taxation Code.

(b) The disclosure described in subdivision (a) shall be posted on the retail seller's or manufacturer's Internet Web site with a conspicuous and easily understood link to the required information placed on the business' homepage. In the event the retail seller or manufacturer does not have an Internet Web site, consumers shall be provided the written disclosure within 30 days of receiving a written request for the disclosure from a consumer.

(c) The disclosure described in subdivision (a) shall, at a minimum, disclose to what extent, if any, that the retail seller or manufacturer does each of the following:

(1) Engages in verification of product supply chains to evaluate and address risks of human trafficking and slavery. The disclosure shall specify if the verification was not conducted by a third party.

(2) Conducts audits of suppliers to evaluate supplier compliance with company standards for trafficking and slavery in supply chains. The disclosure shall specify if the verification was not an independent, unannounced

audit.

(3) Requires direct suppliers to certify that materials incorporated into the product comply with the laws regarding slavery and human trafficking of the country or countries in which they are doing business.

(4) Maintains internal accountability standards and procedures for employees or contractors failing to meet company standards regarding slavery and trafficking.

(5) Provides company employees and management, who have direct responsibility for supply chain management, training on human trafficking and slavery, particularly with respect to mitigating risks within the supply chains of products.

(d) The exclusive remedy for a violation of this section shall be an action brought by the Attorney General for injunctive relief. Nothing in this section shall limit remedies available for a violation of any other state or federal law.

(e) The provisions of this section shall take effect on January 1, 2012.

SEC. 4. Section 19547.5 is added to the Revenue and Taxation Code, to read:

19547.5. (a) (1) Notwithstanding any provision of law, the Franchise Tax Board shall make available to the Attorney General a list of retail sellers and manufacturers required to disclose efforts to eradicate slavery and human trafficking pursuant to Section 1714.43 of the Civil Code. The list shall be based on tax returns filed for taxable years beginning on or after January 1, 2011.

(2) Each list required by this section shall be submitted annually to the Attorney General by November 30, 2012, and each November 30 thereafter. The list shall be derived from original tax returns received by the Franchise Tax Board on or before December 31, 2011, and each December 31 thereafter.

(b) Each annual list required by this section shall include the following information for each retail seller or manufacturer:

(1) Entity name.

(2) California identification number.