HOUSE . . . . . No. 3210

By Representative Kaufman of Lexington and Senator Jehlen, joint petition of Jay R. Kaufman and others for legislation to require the disclosure of locations and conditions of manufacture, distribution and sale of products and of services furnished to the Commonwealth. State Administration and Regulatory Oversight.

The Commonwealth of Massachusetts

PETITION OF:

Jay R. Kaufman
Patricia D. Jehlen
David Paul Linsky
J. James Marzilli, Jr.
Ruth B. Balser
Benjamin Swan
Denise Provost
Gloria L. Fox
Elizabeth A. Malia

In the Year Two Thousand and Seven.

AN ACT RELATIVE TO WORKPLACE DISCLOSURE.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Policy and purpose.

It is hereby declared to be the policy of the Commonwealth of Massachusetts that places of manufacture, distribution or sale of any product or services in which substandard working conditions and unfair wages prevail, commonly known as "sweatshops," unfairly disrupt the free market and are inimical to the welfare of the working people, manufacturers, and consumers of Massachusetts, the United States and the World. The Commonwealth believes employers should fairly compensate hard work; that the health and safety of working people should be protected; that no form of unlawful discrimination or abuse in the workplace should be tolerated; and that the establishment of decent working conditions, fair wages for all workers and the elimination of sweatshop labor are fundamental goals of our democratic society.

The Commonwealth further recognizes that government procurement of goods or services produced under sweatshop conditions offends its citizens' sense of justice and decency.

Moreover, when the Commonwealth contracts with vendors or suppliers of goods or services who provide substandard wages and/or working conditions, the Commonwealth's businesses are placed at a competitive disadvantage. In its role as a market participant and a consumer of goods and services, the Commonwealth seeks to protect the interests of Massachusetts citizens and businesses by dealing with responsible bidders who seek contracts to supply goods or services to the Commonwealth, and to protect Massachusetts businesses and workers from unfair competition created by downward pressure on prices and conditions attributable to businesses that violate applicable workplace laws.

Therefore, it is the policy of the Commonwealth to seek to do business with vendors and suppliers of goods and services who make a good faith effort to ensure that they and their suppliers at the point of assembly adhere to the Commonwealth's principles regarding sweatshop labor and substandard working conditions.

In order to carry out the purposes and intent of this Act, the Commonwealth hereby requires that the source of all products and services purchased by the Commonwealth, or any subdivision thereof, or by any entity financed in whole or in part by the Commonwealth and any subdivision thereof, be fully disclosed and such information be available to the Commonwealth's citizens, residents and public officials.

Further, the Commonwealth requires that all vendors and suppliers of goods or services to the Commonwealth or any subdivision thereof, respond to a questionnaire as part of their contract with the Commonwealth. This questionnaire, which must be signed under the penalties of perjury, will inquire as to whether the vendor or supplier of goods and services and, to the best of their knowledge, their suppliers and subcontractors, comply with the workplace laws at all locations and places of business and assembly, and with treaty obligations that are shared by the United States and the country in which the vendor, supplier or subcontractor's facilities are located.

SECTION 2. Required Disclosures.

A.) Except when federal or other law precludes the Commonwealth from attaching the procurement conditions provided in this Subsection, neither the Commonwealth, nor any board, authority, agency or political subdivision of the Commonwealth, nor any state

university, state college, community college, public school or other educational institution, individual, partnership, trust, corporation, business or other entity, financed in whole or in part by the Commonwealth, or any board, authority, agency or political subdivision thereof, shall purchase or contract for goods or services, sell, license, franchise its name, logo or symbol to be affixed to, or to promote the sale of, any article or service for which the vendor or supplier of services thereof, or their principal subcontractors, have not disclosed, in such printed and electronically accessible form as the [Executive Office for Administration and Finance through its Secretary/ Operational Services Division of the Commonwealth through its State Purchasing Agent ("A & F/OSD")] shall require of the purchaser, licensor, franchiser or user thereof, the location of the vendor or supplier (to include all vendor's or supplier's places of production, assembly, and distribution), or, in the case of services, the source and location of supply. Said vendor or supplier of services shall also supply, in such printed and electronically accessible form as the [A & F/OSD] shall require, the location of all the principal subcontractors' places of production, assembly, and distribution, or in the case of services, the source and location of supply. During the performance of the contract, the vendor or supplier of services and its principal subcontractors shall report any changes of location within 30 days of such a change.

B.) Except when federal or other law precludes the Commonwealth from attaching the procurement conditions provided in this Subsection, no contract to provide goods or services to the Commonwealth, nor any board, authority, agency or political subdivision of the Commonwealth, nor any state university, state college, community college, public school or other educational institution, individual, partnership, trust, corporation, business or other entity, financed in whole or in part by the Commonwealth, or any board, authority, agency or political subdivision thereof, shall be awarded unless the persons signing such contract on behalf of the party contracting to provide such goods or services completes, as part of the contract itself, a questionnaire inquiring as to whether the party contracting with the Commonwealth meets the employment and business conduct requirements set forth in Section 3 of this Act.

C.) Except when federal or other law precludes the Commonwealth from publishing such information, the [A & F/OSD] shall

make available to the Commonwealth's residents, citizens and public officials, in such printed or electronically available form as the [A & F/OSD] shall require, each vendor or service supplier's completed questionnaire, required under Section 2, Subsection B of this Act, relating to working conditions and employment and business conduct at the vendor, supplier or subcontractor's locations and facilities.

SECTION 3. Definitions: Employment and Business Conduct Requirements; Location.

A.) For the purposes of the Act, Employment and Business Conduct Requirements as defined herein shall include the following:—

(1) Compliance with all applicable wage, health, labor, environmental and safety laws and legal guarantees of freedom of association including the right to organize and bargain collectively; compliance with building and fire codes; and compliance with laws relating to discrimination in hiring, promotion or compensation on the basis of race, creed, disability, national origin, gender, sexual orientation or affiliation with any political, nongovernmental or civic group.

(2) Compliance with all human and labor rights treaty obligations that are shared by the United States and the country in which the goods are assembled. These may include obligations with regard to forced labor, indentured labor, slave labor, child labor, involuntary prison labor, physical and sexual abuse and freedom of association.

B.) For the purposes of this Act, Location as defined herein, and as may be further defined in regulations promulgated by the [A & F/OSD], shall include but not be limited to the following:—

(1) name, including trade names, registered names, and names commonly used;

(2) principal address;

(3) person or persons to be contacted for the purpose of verifying information required by Section 2 of this Act;

(4) telephone, fax numbers, mailing addresses, and e-mail addressed of persons to be contacted for the purpose of verifying information required by Section 2 of this Act.

SECTION 4. Advisory Committee.

A.) The [A & F/OSD] shall promulgate regulations establishing an Advisory Committee, whose functions and duties may include, but not be limited to:— verifying information required under Section 2 of this Act; gathering reports from reputable local, national and international non-governmental organizations and other creditable sources regarding working conditions and employment and business conduct of the Commonwealth's vendors and providers of goods and services; providing information gathered from these sources to the public and to the [A & F/OSD]; and working in partnership with the [A & F/OSD] to engage in discussions with vendors and providers of goods and services who do not comply with the Commonwealth's employment and business conduct requirements. The purpose of these discussions is to work with vendors and providers of goods and services, and to use the Commonwealth's bargaining position as a consumer of goods and services to influence them to change their practices.

B.) The Advisory Committee may consist of representatives or designees of, but not be limited to representatives or designees of, the following:— the Governor; the President of the Senate; the Speaker of the House of Representatives; Associated Industries of Massachusetts; Greater Boston Labor Council; Human Rights Watch; Jewish Alliance for Law and Social Action; Labor Guild of the Archdiocese of Boston; Massachusetts AFL-CIO; Massachusetts Council of Churches; Massachusetts Immigrant Refugee Advocacy Coalition; the Massachusetts Interfaith Committee for Worker Justice; the National Labor Committee; Physicians for Human Rights and the Workers Rights Commission. No vendors, contractors, or subcontractors doing business with the Commonwealth, directly or indirectly, shall be members of the Advisory Committee.

C). The members of the Advisory Committee shall serve without compensation. Subject to appropriation, the members of the Advisory Committee may be reimbursed for expenses necessarily and reasonably incurred in the performance of their responsibilities. Subject to appropriation, the Advisory Committee may employ such staff personnel as is necessary to carry out its functions.

SECTION 5. Penalties.

Any vendor or supplier of goods or services to the Commonwealth who knowingly provides false information in response to any required disclosure under Section 2 of this Act shall be subject to the penalties set forth in Massachusetts General Laws Ch. 12 § 5B(9).

SECTION 6. Regulations.

Within one hundred and twenty (120) days of the effective date hereof, the [A & F/OSD] shall promulgate appropriate regulations for the purpose of carrying out the intent of this Act.

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