

103D CONGRESS
1ST SESSION

H. R. 341

To amend the Fair Labor Standards Act of 1938 to increase the penalties for employers who violate such Act, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 5, 1993

Mr. SCHUMER introduced the following bill; which was referred to the Committee on Education and Labor

A BILL

To amend the Fair Labor Standards Act of 1938 to increase the penalties for employers who violate such Act, 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; REFERENCE.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Sweatshops Prevention Act of 1993”.

6 (b) REFERENCE.—Whenever in this Act (other than
7 section 7) an amendment or repeal is expressed in terms
8 of an amendment to, or repeal of, a section or other provi-
9 sion, the reference shall be considered to be made to a

1 section or other provision of the Fair Labor Standards Act
2 of 1938 (29 U.S.C. 201 et seq.).

3 **SEC. 2. VIOLATIONS.**

4 (a) SECTION 16(b).—Section 16(b) (29 U.S.C.
5 216(b)) is amended—

6 (1) by amending the first sentence to read as
7 follows:

8 “(b)(1) Any employer who violates section 6 or 7 of
9 this Act shall be liable—

10 “(A) in the case of a first violation, to each em-
11 ployee affected (i) in the amount of their unpaid
12 minimum wages or unpaid overtime compensation,
13 as the case may be, (ii) for liquidated damages in an
14 amount equal to the amount described in clause (i),
15 and (iii) for interest on the amount described in
16 clause (i) computed, at the time of payment, at the
17 rate of interest determined by the Secretary of the
18 Treasury for interest payments under section 12 of
19 the Contracts Dispute Act of 1978 (41 U.S.C. 611),
20 and

21 “(B) for a second or subsequent violation, to
22 each employee affected in the amount of three times
23 their unpaid minimum wages or unpaid overtime
24 compensation, as the case may be.”,

1 (2) in the third sentence by striking out “An
2 action to recover the liability prescribed in either of
3 the preceding sentences” and inserting in lieu there-
4 of the following:

5 “(2) An action to recover the liability prescribed in
6 paragraph (1)”, and

7 (3) in the sixth sentence by striking out “un-
8 paid minimum wages, or the amount of unpaid over-
9 time compensation, as the case may be, owing to
10 such employee under section 6 or section 7 of this
11 Act by an employer liable therefor under the provi-
12 sions of this subsection” and inserting in lieu thereof
13 “the liability prescribed in paragraph (1)”.

14 (b) SECTION 16(c).—Section 16(c) (29 U.S.C.
15 216(c)) is amended—

16 (1) in the first sentence by striking out “under
17 subsection (b) of this section to such unpaid mini-
18 mum wages or unpaid overtime compensation and
19 an additional equal amount as liquidated damages”
20 and inserting in lieu thereof “to the amount pre-
21 scribed by subsection (b)(1)”,

22 (2) in the second sentence by striking out “the
23 amount of the unpaid minimum wages or overtime
24 compensation and equal amount as liquidated dam-

1 ages” and inserting in lieu thereof “the amount pre-
2 scribed by subsection (b)(1).”,

3 (3) in the third sentence, (A) by striking out
4 “(b)” and inserting in lieu thereof “(b)(2)”, (B) by
5 striking out “the first sentence of such subsection”
6 and inserting in lieu thereof “subsection (b)(1)”,
7 and (C) by striking out “unpaid minimum wages or
8 unpaid overtime compensation under sections 6 and
9 7 or liquidated or other damages provided by this
10 subsection” and inserting in lieu thereof “the
11 amounts”.

12 **SEC. 3. SEIZURES.**

13 Section 16 (29 U.S.C. 216) is amended by adding
14 at the end the following:

15 “(f)(1)(A)(i) If an employer engaged in garment
16 manufacturing violates section 6, 7, or 12 more than 2
17 times in a 3-year period, the Secretary may seize garments
18 from the premises of the employer in a value not to exceed
19 the liability of the employer under subsection (b) or (e)
20 for the last such violation.

21 “(ii) If garments are produced by homeworkers in
22 violation of section 11(d), the Secretary may seize all the
23 garments so produced, except that if the employer of the
24 homeworker obtained a certificate to employ homeworkers
25 pursuant to section 11(d) and the employer violated the

1 terms of the certificate, the Secretary may seize garments
2 so produced in a value not to exceed the liability of the
3 employer under this Act.

4 “(B) If the Secretary seizes garments under subpara-
5 graph (A), the Secretary shall notify the owner of such
6 garments of the seizure and shall provide for the return
7 of the garments to the owner if the liability of such em-
8 ployer for such violation is met.

9 “(2) The owner of garments seized under paragraph
10 (1) may have review of the authority of the Secretary to
11 make the seizure. Such review shall be made in an admin-
12 istrative proceeding after opportunity for a hearing in ac-
13 cordance with section 554 of title 5, United States Code.

14 “(3) The Secretary shall issue regulations governing
15 the destruction or disposal of garments seized under para-
16 graph (1). Such garments may not be disposed of by sale.

17 “(4) For purposes of paragraph (1), the term ‘gar-
18 ment manufacturing’ means the sewing, knitting, cutting,
19 making, processing, repairing, finishing, assembling, or
20 otherwise preparing any garment or any article of wearing
21 apparel or accessories designed or intended to be worn by
22 an individual, including clothing, hats, gloves, handbags,
23 hosiery, ties, scarfs, and belts to be sold or resold by any
24 person contracting to have such operations performed.”.

1 **SEC. 4. CIVIL PENALTIES.**

2 (a) IN GENERAL.—The first sentence of section 16(e)
3 (29 U.S.C. 216(e) is amended to read as follows:

4 “(e)(1) Any person—

5 “(A) who violates section 12 or any regulation
6 issued under that section shall be subject to a civil
7 penalty of not to exceed \$10,000 for each such viola-
8 tion,

9 “(B) who violates section 6 or 7 two or more
10 times shall be subject to a civil penalty of not to ex-
11 ceed \$10,000 for each such violation, or

12 “(C) who violates section 15(a)(5)—

13 “(i) shall be subject to a civil penalty of
14 not to exceed \$1,000 for the first violation, and

15 “(ii) shall be subject to a civil penalty of
16 not to exceed \$10,000 for each violation after
17 the first violation.”.

18 (b) TECHNICAL.—The second sentence of section
19 16(e) (29 U.S.C. 216(e)) is amended—

20 (1) by striking out “In determining the
21 amount of such penalty” and inserting in lieu there-
22 of the following:

23 “(2) In determining the amount of the penalty au-
24 thorized by paragraph (1)”, and

25 (2) by redesignating paragraphs (1), (2), and

26 (3) as subparagraphs (A), (B), and (C), respectively.

1 **SEC. 5. CRIMINAL PENALTIES.**

2 Section 16(a) (29 U.S.C. 216(a)) is amended by
3 striking out “a fine of not more than \$10,000 or to impris-
4 onment for not more than six months” and inserting in
5 lieu thereof “a fine in accordance with title 18, United
6 States Code, or to imprisonment for at least six months
7 and not more than one year”.

8 **SEC. 6. SETTLEMENTS.**

9 The first sentence of section 16(c) (29 U.S.C. 216(c))
10 is amended by striking out “unpaid minimum wages or
11 the unpaid overtime compensation owing to any employee
12 or employees under section 6 or 7 of this Act” and insert-
13 ing in lieu thereof “amount prescribed by subsection
14 (b)(1) to any employee or employees”.

15 **SEC. 7. STATUTE OF LIMITATIONS.**

16 Section 6(a) of the Portal-to-Portal Act of 1947 (29
17 U.S.C. 255(a)) is amended by striking out “two years”
18 each place it occurs and inserting in lieu thereof “three
19 years” and by striking out “, except that” and all that
20 follows in that section and inserting in lieu thereof a semi-
21 colon.

22 **SEC. 8. COORDINATION.**

23 (a) IN GENERAL.—The Secretary of Labor shall es-
24 tablish and encourage closer working relationships among
25 Federal and State agencies having responsibility for en-
26 forcing labor, safety and health, and immigration laws.

1 (b) REFERRALS.—

2 (1) The Secretary of Labor shall establish a re-
3 ferral system under which employees engaged in the
4 enforcement of the Fair Labor Standards Act of
5 1938 and the Occupational Safety and Health Act
6 of 1970 shall—

7 (A) exchange information about suspected
8 violators of the Acts and monitor the results of
9 referrals to each other, and

10 (B) provide basic training to each other's
11 staffs concerning the requirements of such Acts.

12 (2) The Secretary of Labor shall require em-
13 ployees engaged in the enforcement of the Fair
14 Labor Standards Act of 1938 and the Occupational
15 Safety and Health Act of 1970 to establish a refer-
16 ral system with—

17 (A) employees of the Immigration and
18 Naturalization Service engaged in the enforce-
19 ment of the Immigration and Nationality Act,
20 and

21 (B) employees of Departments of Labor of
22 the States engaged in the enforcement of State
23 minimum wage and occupational safety and
24 health laws.

1 The Service and the State Departments of Labor
2 shall each be encouraged by the Secretary of
3 Labor to establish information exchanges and, to
4 the extent practicable, provided training to each
5 other's staffs concerning the requirements of the
6 Acts enforced by the respective agencies.

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