

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	_____	(Y/N)
ADOPTED AS AMENDED	_____	(Y/N)
ADOPTED W/O OBJECTION	_____	(Y/N)
FAILED TO ADOPT	_____	(Y/N)
WITHDRAWN	_____	(Y/N)
OTHER		

1 Committee/Subcommittee hearing bill: Constitutional Rights,
 2 Rule of Law & Government Operations Subcommittee
 3 Representative Yeager offered the following:
 4

Amendment (with title amendment)

6 Remove lines 102-244 and insert:

7 (5) (a). A company is removed automatically from the list 366
 8 days after the date of the final order placing the company on
 9 the list.

10 (e) Upon receiving from any source reasonable and credible
 11 information that a company has submitted a false certification
 12 or provided to an agency a commodity produced, in whole or in
 13 part, by forced labor, the department shall investigate the
 14 information and determine whether good cause exists to place
 15 that company on the forced labor vendor list and whether such
 16 placement is in the public interest. If good cause exists and

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17 placement is in the public interest, the department shall notify
18 the company in writing of the department's intent to place the
19 company on the list and of the company's right to a hearing, the
20 procedure that must be followed, and the applicable time
21 requirements. If the company does not request a hearing, the
22 department shall enter a final order placing the company on the
23 forced labor vendor list. A company may not be placed on the
24 forced labor vendor list without receiving an individual notice
25 of intent from the department.

26 1. It is not in the public interest to place a company on
27 the forced labor vendor list if any of the following apply:

28 a. The company did not provide to an agency a commodity
29 produced, in whole or in part, by forced labor;

30 b. The provision to an agency of a commodity produced, in
31 whole or in part, by forced labor was committed by an employee
32 of the company without the actual or constructive knowledge of
33 any member of the company's senior management;

34 c. The member of the company's senior management
35 responsible for the contract under which the company provided to
36 the agency a commodity produced, in whole or in part, by forced
37 labor did not have actual or constructive knowledge that the
38 commodity was produced, in whole or in part, by forced labor and
39 a reasonable person under similar circumstances to that of such
40 member would not have known that the commodity was produced, in
41 whole or in part, by forced labor;

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42 d. The member of the company's senior management
43 responsible for the contract under which the company provided to
44 the agency a commodity produced, in whole or in part, by forced
45 labor is no longer an employee of the company; or

46 e. One of the following occurs:

47 (I) For a contract with an executive agency, the Governor
48 makes a public finding that, absent the provision of such
49 commodities by the company, the agency would be unable to obtain
50 the commodities for which the contract is offered.

51 (II) For a contract with an agency of a state
52 constitutional officer other than the Governor, the state
53 constitutional officer makes a public finding that, absent the
54 provision of such commodities by the company, the agency would
55 be unable to obtain the commodities for which the contract is
56 offered.

57 2. In determining whether it is in the public interest to
58 place a company on the forced labor vendor list, the following
59 factors shall be considered:

60 a. The nature and details of the provision of the
61 commodity produced, in whole or in part, by forced labor.

62 b. The degree of culpability of the company proposed to be
63 placed on the forced labor vendor list.

64 c. Prior or future self-policing by the company to prevent
65 the provision of a commodity produced, in whole or in part, by
66 forced labor.

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67 d. The company's compliance with paragraph (c).

68 e. The needs of agencies for additional competition in the
69 procurement of commodities in their respective markets.

70 f. Mitigation based upon any demonstration of good
71 citizenship by the company, including, but not limited to, the
72 adoption of a formal plan to cease producing or providing
73 commodities produced, in whole or in part, by forced labor.

74 (f) A company that submits a false certification under
75 paragraph (b) or that should have known that a commodity
76 provided under a contract with an agency was produced, in whole
77 or in part, by forced labor and is subsequently placed on the
78 forced labor vendor list shall be assessed a fine of no more
79 than \$1,000 or an amount equal to 20 percent of the value of the
80 commodity provided to the agency under the contract, whichever
81 is greater.

82 (5) (a) Within 21 days after receipt of the notice of
83 intent pursuant to paragraph (4) (e), the company may file a
84 petition for a hearing involving disputed issues of material
85 fact pursuant to ss. 120.569 and 120.57(1) to challenge the
86 department's determination that the company's placement on the
87 forced labor vendor list is in the public interest. A company
88 may not file a petition for a hearing not involving disputed
89 issues of material fact under s. 120.57(2). Chapter 120 applies
90 to a hearing under this section except that:

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91 1. The petition shall be filed with the department. The
92 department shall be a party to the proceeding for all purposes.

93 2. Within 5 days after the filing of the petition, the
94 department shall notify the Division of Administrative Hearings
95 of the request for a hearing pursuant to ss. 120.569 and
96 120.57(1). The director of the Division of Administrative
97 Hearings shall, within 5 days after receipt of notice from the
98 department, assign an administrative law judge to preside over
99 the proceeding. The administrative law judge, upon request by a
100 party, may consolidate related proceedings.

101 3. The administrative law judge shall conduct the hearing
102 within 30 days after being assigned, unless otherwise stipulated
103 by the parties.

104 4. Within 30 days after the hearing or receipt of the
105 hearing transcript, whichever is later, the administrative law
106 judge shall enter a final order, which shall consist of findings
107 of fact, conclusions of law, interpretation of agency rules, and
108 any other information required by law or rule to be contained in
109 the final order. Such final order shall place or not place the
110 company on the forced labor vendor list.

111 5. The final order of the administrative law judge shall
112 be final agency action for purposes of s. 120.68.

113 6. At any time after the filing of the petition, informal
114 disposition may be made pursuant to s. 120.57(4). In that event,

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115 the administrative law judge shall enter a final order adopting
116 the stipulation, agreed settlement, or consent order.

117 (b) In any proceeding under this section, the department
118 is required to prove by clear and convincing evidence that it is
119 in the public interest for the company to which the department
120 has provided notice of intent pursuant to paragraph (4) (e) to be
121 placed on the forced labor vendor list. Proof that such company
122 provided to an agency a commodity produced, in whole or in part,
123 by forced labor constitutes a rebuttable presumption that it is
124 in the public interest for the company to be placed on the
125 forced labor vendor list.

126 (c) Upon establishment of the rebuttable presumption in
127 paragraph (b) that it is in the public interest for the company
128 to be placed on the forced labor vendor list, that company may
129 prove by a preponderance of the evidence that it is not in the
130 public interest for such company to be placed on the list based
131 upon evidence addressing the provisions of sub-subparagraph
132 (4) (e)1. or the factors in sub-subparagraph (4) (e)2.

133 (d)1. A company on the forced labor vendor list may
134 petition for such company's removal from the list no sooner than
135 6 months after the date a final order is entered placing the
136 company on the list. The petition shall be filed with the
137 department and the proceeding shall be conducted pursuant to
138 this subsection.

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139 2. A company may be removed from the forced labor vendor
140 list subject to such terms and conditions as may be prescribed
141 by the administrative law judge upon a determination that
142 removal is in the public interest. In determining whether
143 removal is in the public interest, the administrative law judge
144 shall give consideration to any relevant factors, including
145 whether the company has prepared a corrective action plan that
146 addresses the original grounds for placement on the list as well
147 as any additional evidence that the company has in good faith
148 taken significant remedial action.

149 3. If a petition for removal is denied, the company may
150 not petition for another hearing on removal. The department may
151 petition for removal before the expiration of the 365-day period
152 provided in subsection (3) if, in the

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T I T L E A M E N D M E N T

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Remove line 18 and insert:

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providing requirements for such list; providing for automatic

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removal from the list; providing a