

1 A bill to be entitled
2 An act relating to commodities produced by forced
3 labor; creating s. 287.1346, F.S.; providing
4 definitions; prohibiting a company on the forced labor
5 vendor list from taking certain procurement actions;
6 prohibiting an agency from procuring commodities from
7 certain companies for a certain period; requiring
8 certain solicitations and contracts to include a
9 certain statement; requiring certain contracts to
10 include a certain termination provision; requiring a
11 member of a company's senior management to provide a
12 certain certification; requiring a company to provide
13 a certain notification to the Department of Management
14 Services within a certain period; requiring an agency
15 to provide certain information to the department
16 within a certain period; requiring the department to
17 create and maintain a forced labor vendor list;
18 providing requirements for such list; providing for
19 automatic removal from the list; providing a process
20 for the department to place a company on such list;
21 subjecting a company that submits a false
22 certification or that should have had certain
23 knowledge to a fine; authorizing a company that
24 receives certain notice to file a petition for a
25 certain hearing; providing requirements and procedures

26 | for such hearings; providing evidentiary standards for
 27 | certain proceedings; authorizing a company placed on
 28 | such list to petition for removal; providing
 29 | requirements for such petitions; authorizing the
 30 | removal of a company from such list in certain
 31 | circumstances; providing construction; requiring the
 32 | deposit of collected fines into the General Revenue
 33 | Fund; providing an effective date.

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35 | Be It Enacted by the Legislature of the State of Florida:

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37 | Section 1. Section 287.1346, Florida Statutes, is created
 38 | to read:

39 | 287.1346 Provision of commodities produced by forced
 40 | labor; denial or revocation of the right to transact business
 41 | with agencies.—

42 | (1) As used in this section, the term:

43 | (a) "Forced labor" means work or service exacted from any
 44 | person, including a minor, under the menace of a penalty for
 45 | nonperformance and for which the worker does not offer himself
 46 | or herself voluntarily or an activity that violates s. 787.06.

47 | (b) "Forced labor vendor list" or "list" means the list
 48 | required to be created and maintained by the department pursuant
 49 | to paragraph (4) (d).

50 | (c) "Senior management" includes chief executive officers;

51 assistant chief executive officers, including, but not limited
52 to, assistant presidents, vice presidents, or assistant
53 treasurers; chief financial officers; chief personnel officers;
54 or any employee of an entity performing similar functions.

55 (2) A company on the forced labor vendor list may not:

56 (a) Submit a bid, proposal, or reply on a contract to
57 provide any commodities to an agency.

58 (b) Be awarded a contract or perform work as a contractor,
59 supplier, subcontractor, or consultant with an agency for the
60 provision of commodities.

61 (c) Transact business for the provision of commodities
62 with any agency.

63 (3) An agency may not accept a bid, proposal, or reply
64 from, award a contract to, or transact business pertaining to
65 the provision of commodities with a company on the forced labor
66 vendor list, or an entity under the control of such company, for
67 a period of 365 days after the date the company was placed on
68 the list unless the company is removed from the list pursuant to
69 paragraph (5) (d).

70 (4) (a) 1. All invitations to bid, requests for proposals,
71 and invitations to negotiate and any written contract for the
72 provision of commodities by an agency must include a statement
73 informing companies of the requirements of this section.

74 2. Any contract with an agency for the provision of
75 commodities entered into or renewed on or after July 1, 2024,

76 must include a provision that allows for the termination of such
77 contract at the option of the awarding agency if the company is
78 placed on the forced labor vendor list.

79 (b) At the time a company submits a bid, proposal, or
80 reply for a contract and before the company enters into or
81 renews a contract with an agency for the provision of
82 commodities, a member of the company's senior management must
83 certify, in writing, that to the best of his or her knowledge
84 the commodities such company is offering to the agency have not
85 been produced, in whole or in part, by forced labor.

86 (c) A company must notify the department within 30 days
87 after gaining actual knowledge that the company has provided to
88 an agency a commodity produced, in whole or in part, by forced
89 labor. Any agency that receives information that a company has
90 provided to an agency a commodity produced, in whole or in part,
91 by forced labor must provide that information to the department
92 in writing within 10 days.

93 (d) The department shall create and maintain a forced
94 labor vendor list that contains the name and address of each
95 company that has been disqualified from the public contracting
96 and purchasing process under this section. The department shall
97 publish an updated version of the list quarterly. The updated
98 quarterly list shall be electronically posted on the
99 department's website. Notwithstanding this paragraph, a company
100 disqualified from the public contracting and purchasing process

101 pursuant to this section shall be disqualified as of the date a
102 final order is entered pursuant to paragraph (e) or paragraph
103 (5)(a). A company is automatically removed from the list 366
104 days after the date of the final order placing the company on
105 the list.

106 (e) Upon receiving from any source reasonable and credible
107 information that a company has submitted a false certification
108 or provided to an agency a commodity produced, in whole or in
109 part, by forced labor, the department shall investigate the
110 information and determine whether good cause exists to place
111 that company on the forced labor vendor list and whether such
112 placement is in the public interest. If good cause exists and
113 placement is in the public interest, the department shall notify
114 the company in writing of the department's intent to place the
115 company on the list and of the company's right to a hearing, the
116 procedure that must be followed, and the applicable time
117 requirements. If the company does not request a hearing, the
118 department shall enter a final order placing the company on the
119 forced labor vendor list. A company may not be placed on the
120 forced labor vendor list without receiving an individual notice
121 of intent from the department.

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

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

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

130 c. The member of the company's senior management
131 responsible for the contract under which the company provided to
132 the agency a commodity produced, in whole or in part, by forced
133 labor did not have actual or constructive knowledge that the
134 commodity was produced, in whole or in part, by forced labor and
135 a reasonable person under similar circumstances to that of such
136 member would not have known that the commodity was produced, in
137 whole or in part, by forced labor;

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

142 e. The agency head or a designee delegated the authority
143 to execute contracts on behalf of the agency makes a public
144 finding that, absent the provision of such commodities by the
145 company, the agency would be unable to obtain the commodities
146 for which the contract is offered.

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

150 a. The nature and details of the provision of the

151 commodity produced, in whole or in part, by forced labor.

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

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

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

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

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

164 (f) A company that submits a false certification under
165 paragraph (b) or that should have known that a commodity
166 provided under a contract with an agency was produced, in whole
167 or in part, by forced labor and is subsequently placed on the
168 forced labor vendor list shall be assessed a fine of \$1,000 or
169 an amount equal to 20 percent of the value of the commodity
170 provided to the agency under the contract, whichever is greater.

171 (5) (a) Within 21 days after receipt of the notice of
172 intent pursuant to paragraph (4) (e), the company may file a
173 petition for a hearing involving disputed issues of material
174 fact pursuant to ss. 120.569 and 120.57(1) to challenge the
175 department's determination that the company's placement on the

176 forced labor vendor list is in the public interest. A company
177 may not file a petition for a hearing not involving disputed
178 issues of material fact under s. 120.57(2). Chapter 120 applies
179 to a hearing under this section except that:

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

182 2. Within 5 days after the filing of the petition, the
183 department shall notify the Division of Administrative Hearings
184 of the request for a hearing pursuant to ss. 120.569 and
185 120.57(1). The director of the Division of Administrative
186 Hearings shall, within 5 days after receipt of notice from the
187 department, assign an administrative law judge to preside over
188 the proceeding. The administrative law judge, upon request by a
189 party, may consolidate related proceedings.

190 3. The administrative law judge shall conduct the hearing
191 within 30 days after being assigned, unless otherwise stipulated
192 by the parties.

193 4. Within 30 days after the hearing or receipt of the
194 hearing transcript, whichever is later, the administrative law
195 judge shall enter a final order, which shall consist of findings
196 of fact, conclusions of law, interpretation of agency rules, and
197 any other information required by law or rule to be contained in
198 the final order. Such final order shall place or not place the
199 company on the forced labor vendor list.

200 5. The final order of the administrative law judge shall

201 be final agency action for purposes of s. 120.68.

202 6. At any time after the filing of the petition, informal
203 disposition may be made pursuant to s. 120.57(4). In that event,
204 the administrative law judge shall enter a final order adopting
205 the stipulation, agreed settlement, or consent order.

206 (b) In any proceeding under this section, the department
207 is required to prove by clear and convincing evidence that it is
208 in the public interest for the company to which the department
209 has provided notice of intent pursuant to paragraph (4) (e) to be
210 placed on the forced labor vendor list. Proof that such company
211 provided to an agency a commodity produced, in whole or in part,
212 by forced labor constitutes a rebuttable presumption that it is
213 in the public interest for the company to be placed on the
214 forced labor vendor list.

215 (c) Upon establishment of the rebuttable presumption in
216 paragraph (b) that it is in the public interest for the company
217 to be placed on the forced labor vendor list, that company may
218 prove by a preponderance of the evidence that it is not in the
219 public interest for such company to be placed on the list based
220 upon evidence addressing the provisions of sub-subparagraph
221 (4) (e)1. or the factors in sub-subparagraph (4) (e)2.

222 (d)1. A company on the forced labor vendor list may
223 petition for such company's removal from the list no sooner than
224 6 months after the date a final order is entered placing the
225 company on the list. The petition shall be filed with the

226 department and the proceeding shall be conducted pursuant to
227 this subsection.

228 2. A company may be removed from the forced labor vendor
229 list subject to such terms and conditions as may be prescribed
230 by the administrative law judge upon a determination that
231 removal is in the public interest. In determining whether
232 removal is in the public interest, the administrative law judge
233 shall give consideration to any relevant factors, including
234 whether the company has prepared a corrective action plan that
235 addresses the original grounds for placement on the list as well
236 as any additional evidence that the company has in good faith
237 taken significant remedial action.

238 3. If a petition for removal is denied, the company may
239 not petition for another hearing on removal. The department may
240 petition for removal before the expiration of the 365-day period
241 provided in subsection (3) if, in the department's discretion,
242 the department determines that removal would be in the public
243 interest.

244 (6) Placement on the forced labor vendor list does not
245 affect any rights or obligations under any contract, franchise,
246 or other binding agreement which predates such placement.

247 (7) Any fines collected under this section shall be
248 deposited into the General Revenue Fund.

249 Section 2. This act shall take effect July 1, 2024.