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1  
 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

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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.

34

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

36

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;

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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,

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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

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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;

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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

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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

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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

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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

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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.