

By the Committee on Governmental Oversight and Accountability

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

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30 certain proceedings; authorizing a company placed on
31 such list to petition for removal; providing
32 requirements for such petitions; authorizing the
33 removal of a company from such list under certain
34 circumstances; providing construction; requiring that
35 collected fines be deposited into the General Revenue
36 Fund; providing an effective date.

37
38 Be It Enacted by the Legislature of the State of Florida:

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40 Section 1. Section 287.1346, Florida Statutes, is created
41 to read:

42 287.1346 Provision of commodities produced by forced labor;
43 denial or revocation of the right to transact business with
44 agencies.-

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

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

50 (b) "Forced labor vendor list" or "list" means the list
51 required to be created and maintained by the department pursuant
52 to paragraph (4) (d).

53 (c) "Senior management" includes chief executive officers;
54 assistant chief executive officers, including, but not limited
55 to, assistant presidents, vice presidents, or assistant
56 treasurers; chief financial officers; chief personnel officers;
57 or any employee of an entity performing similar functions.

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

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

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

64 (c) Transact business for the provision of commodities with
65 any agency.

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

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

77 2. Any contract with an agency for the provision of
78 commodities entered into or renewed on or after July 1, 2024,
79 must include a provision that allows for the termination of such
80 contract at the option of the awarding agency if the company is
81 placed on the forced labor vendor list.

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

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88 produced, in whole or in part, by forced labor.

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

96 (d) The department shall create and maintain a forced labor
97 vendor list that contains the name and address of each company
98 that has been disqualified from the public contracting and
99 purchasing process under this section. The department shall
100 publish an updated version of the list quarterly. The updated
101 quarterly list shall be electronically posted on the
102 department's website. Notwithstanding this paragraph, a company
103 disqualified from the public contracting and purchasing process
104 pursuant to this section shall be disqualified as of the date a
105 final order is entered pursuant to paragraph (e) or paragraph
106 (5) (a). A company is removed automatically from the list 366
107 days after the date of the final order placing the company on
108 the list.

109 (e) Upon receiving from any source reasonable and credible
110 information that a company has submitted a false certification
111 or provided to an agency a commodity produced, in whole or in
112 part, by forced labor, the department shall investigate the
113 information and determine whether good cause exists to place the
114 company on the forced labor vendor list and whether such
115 placement is in the public interest. If good cause exists and
116 placement is in the public interest, the department shall notify

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117 the company in writing of the department's intent to place the
118 company on the list and of the company's right to a hearing, the
119 procedure that must be followed, and the applicable time
120 requirements. If the company does not request a hearing, the
121 department shall enter a final order placing the company on the
122 forced labor vendor list. A company may not be placed on the
123 forced labor vendor list without receiving an individual notice
124 of intent from the department.

125 1. It is not in the public interest to place a company on
126 the forced labor vendor list if any of the following applies:

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

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

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

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

145 e. One of the following occurs:

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

150 (II) For a contract with an agency of a state
151 constitutional officer other than the Governor, the state
152 constitutional officer makes a public finding that, absent the
153 provision of such commodities by the company, the agency would
154 be unable to obtain the commodities for which the contract is
155 offered.

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

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

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

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

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

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

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

173 (f) A company that submits a false certification under
174 paragraph (b) or that should have known that a commodity

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175 provided under a contract with an agency was produced, in whole
176 or in part, by forced labor and is subsequently placed on the
177 forced labor vendor list shall be assessed a fine of \$1,000 or
178 an amount equal to 20 percent of the value of the commodity
179 provided to the agency under the contract, whichever is greater.

180 (5) (a) Within 21 days after receipt of the notice of intent
181 pursuant to paragraph (4) (e), the company may file a petition
182 for a hearing involving disputed issues of material fact
183 pursuant to ss. 120.569 and 120.57(1) to challenge the agency's
184 determination that the company's placement on the forced labor
185 vendor list is in the public interest. A company may not file a
186 petition for a hearing not involving disputed issues of material
187 fact under s. 120.57(2). Chapter 120 applies to a hearing under
188 this section except that:

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

191 2. Within 5 days after the filing of the petition, the
192 department shall notify the Division of Administrative Hearings
193 of the request for a hearing pursuant to ss. 120.569 and
194 120.57(1). The director of the Division of Administrative
195 Hearings shall, within 5 days after receipt of notice from the
196 department, assign an administrative law judge to preside over
197 the proceeding. The administrative law judge, upon request by a
198 party, may consolidate related proceedings.

199 3. The administrative law judge shall conduct the hearing
200 within 30 days after being assigned, unless otherwise stipulated
201 by the parties.

202 4. Within 30 days after the hearing or receipt of the
203 hearing transcript, whichever is later, the administrative law

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204 judge shall enter a final order, which shall consist of findings
205 of fact, conclusions of law, interpretation of agency rules, and
206 any other information required by law or rule to be contained in
207 the final order. Such final order shall place or not place the
208 company on the forced labor vendor list.

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

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

215 (b) In any proceeding under this section, the department is
216 required to prove by clear and convincing evidence that it is in
217 the public interest for the company to which the department has
218 provided notice of intent pursuant to paragraph (4) (e) to be
219 placed on the forced labor vendor list. Proof that such company
220 provided to an agency a commodity produced, in whole or in part,
221 by forced labor constitutes a rebuttable presumption that it is
222 in the public interest for the company to be placed on the
223 forced labor vendor list.

224 (c) Upon establishment of the rebuttable presumption in
225 paragraph (b) that it is in the public interest for the company
226 to be placed on the forced labor vendor list, that company may
227 prove by a preponderance of the evidence that it is not in the
228 public interest for such company to be placed on the list based
229 upon evidence addressing the provisions of sub-subparagraph
230 (4) (e)1. or the factors in sub-subparagraph (4) (e)2.

231 (d)1. A company on the forced labor vendor list may
232 petition for such company's removal from the list no sooner than

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233 6 months after the date a final order is entered placing the
234 company on the list. The petition shall be filed with the
235 department, and the proceeding shall be conducted pursuant to
236 this subsection.

237 2. A company may be removed from the forced labor vendor
238 list subject to such terms and conditions as may be prescribed
239 by the administrative law judge upon a determination that
240 removal is in the public interest. In determining whether
241 removal is in the public interest, the administrative law judge
242 shall give consideration to any relevant factors, including
243 whether the company has prepared a corrective action plan that
244 addresses the original grounds for placement on the list as well
245 as any additional evidence that the company has in good faith
246 taken significant remedial action.

247 3. If a petition for removal is denied, the company may not
248 petition for another hearing on removal. The department may
249 petition for removal before the expiration of the 365-day period
250 provided in subsection (3) if, in the department's discretion,
251 the department determines that removal would be in the public
252 interest.

253 (6) Placement on the forced labor vendor list does not
254 affect any rights or obligations under any contract, franchise,
255 or other binding agreement which predate such placement.

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

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