

Increasing Regulations on Human Trafficking: What New Laws Affect Your Company?

The growth of human trafficking is often attributed to a widespread lack of awareness, which means fewer criminals get caught. With this perceived low risk and global demand for cheap services, forced labor has become the world's fastest growing crime and the second largest source of illegal income.

Many countries are now following the United States and the United Kingdom, who recently passed and amended the four laws below to increase levels of awareness, push action and strengthen the global fight against human trafficking. Policies are rapidly evolving and expanding to place legal responsibility on the corporations profiting from unethical supply chain practices, whether they are aware of it or not. This requires a deeper level of supply chain awareness from all major companies worldwide.

THE CALIFORNIA TRANSPARENCY IN SUPPLY CHAINS ACT (EFFECTIVE JANUARY 1, 2012)

PURPOSE

Encourage companies to responsibly manage supply chains, eliminating any form of human trafficking and disclosing their efforts.

REQUIREMENTS

Requires disclosure of what your company did to:

- Verify supply chain to evaluate/address risks.
- Audit suppliers to evaluate compliance with your company standards.
- Obtain certification from direct suppliers that materials incorporated into goods comply with local anti-trafficking and slavery laws.
- Maintain internal "accountability standards and procedures" for those who fail to meet your standards.
- Provide training to employees/management with supply chain responsibility (focus on mitigating supply chain risks and identifying trafficking).

The company must include a conspicuous and easily understood link to the disclosure on the homepage of their website. If the company does not have a website, it must provide consumers with a written disclosure within 30 days of receiving the written request.

WHO IT AFFECTS

Retail sellers and manufacturers (based on tax status) doing business in California w/annual gross worldwide receipts exceeding \$100 million.

Property or salaries in California must exceed \$50k.

PENALTIES

Injunctive relief by the California Attorney General.

U.S. FEDERAL ACQUISITION REGULATIONS SUBPART 22.17 (EFFECTIVE MARCH 2, 2015)

PURPOSE

Amendment of the original FAR definition of "trafficking-related activities" to expand legal requirements of companies.

New requirements include providing compliance plans and certification that guarantees the absence of trafficking activities every year.

REQUIREMENTS

Prohibits the following:

- Denying access to employee's identity documents.
- Using misleading employee recruitment practices.
- Charging employees recruitment fees.
- Failing to pay return transportation costs to the home country upon the end of employment.
- Providing housing that is below host country standards.
- Failing to provide an employment contract, recruitment agreement, or other work document in language understood by the worker.

For contracts performed outside the U.S. and greater than \$500,000:

- Implement procedures to prevent such activities.
- Due diligence that no such activities exist; or, if found, appropriate actions taken.
- Annual certification: contractors must certify annually it has the compliance plan; and, if abuses found, the contractor has taken the appropriate actions

WHO IT AFFECTS

Federal contractors, subcontractors, its employees and its agents.

PENALTIES

Suspension of payments, loss of fees, contract termination, or suspension or debarment.

U.K. MODERN SLAVERY ACT 2015 (EFFECTIVE MARCH 26, 2015)

PURPOSE

Encourage businesses to take steps in preventing human trafficking by requiring public notice of steps taken.

REQUIREMENTS

Requires an annual statement of all steps the organization has taken during the financial year to ensure no slavery and human trafficking is taking place in any part of its supply chains, or any parts of its business.

A link is required to be posted in a prominent place on the company website's homepage. If the company has no website, must provide a statement within 30 days of receiving the written request.

WHO IT AFFECTS

Any company that supplies goods and/or services, carries on a business or part of a business in any part of the U.K., and has a total turnover exceeding £36 million.

PENALTIES

High Court injunction (civil action brought by Secretary of State).

U.S. TRADE FACILITATION AND TRADE ENFORCEMENT ACT (TFTEA) (EFFECTIVE MARCH 10, 2016)

PURPOSE

Amendment to Section 307 of the Tariff Act of 1930 to close the "consumptive demand" loophole that permitted some imports from forced labor into the U.S. if there was not sufficient supply to meet domestic demand. Now it is banned entirely for the U.S. to accept any imported goods or services from forced labor.

This provision authorizes Customs and Border Protection (CBP) to seize imported goods where forced or indentured labor was suspected, and to block future imports.

REQUIREMENTS

All companies importing goods to the U.S. is required by law to end forced labor in all tiers of their supply chains.

The Commissioner of U.S. Customs and Border Protection is required to submit a report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives that includes:

- The number of instances in which merchandise was denied entry during the 1-year period preceding the report submission.
- A description of the merchandise denied entry.
- Other information deemed appropriate with respect to monitoring and enforcing compliance.

WHO IT AFFECTS

Any company involved in international trade with the United States.

PENALTIES

Steeper penalties by the CBP to seize goods and block future imports.

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