

# SENATE BILL REPORT

## SB 5541

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As Reported by Senate Committee On:  
Labor & Commerce, February 14, 2023

**Title:** An act relating to transparency in supply chains.

**Brief Description:** Providing transparency in supply chains.

**Sponsors:** Senators Dhingra, Keiser, Hasegawa, Lovelett, Salomon, Stanford, Trudeau, Valdez and Wilson, C..

**Brief History:**

**Committee Activity:** Labor & Commerce: 2/06/23, 2/14/23 [DPS-WM, DNP].

**Brief Summary of First Substitute Bill**

- Requires every retail seller and manufacturer doing business in Washington and having annual worldwide gross receipts of \$100 million or more to disclose its efforts to eradicate human trafficking and forced labor from its direct supply chain for tangible goods offered for sale.
- Requires the Department of Revenue to submit a list of noncompliant sellers and manufacturers to the Attorney General and Legislature.

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### SENATE COMMITTEE ON LABOR & COMMERCE

**Majority Report:** That Substitute Senate Bill No. 5541 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Keiser, Chair; Conway, Vice Chair; Saldaña, Vice Chair; Robinson and Stanford.

**Minority Report:** Do not pass.

Signed by Senators King, Ranking Member; Braun, MacEwen and Schoesler.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.*

**Staff:** Susan Jones (786-7404)

**Background:** Several laws address employment standards. The Minimum Wage Act (MWA) sets forth overtime in addition to minimum wage requirements. The Industrial Welfare Act deals with wages, hours, and working conditions, including child labor, work apparel, and other matters. Under prevailing wage provisions, contractors and subcontractors on public works projects and public building service maintenance contracts must pay their workers prevailing wages. The Wage Payment Act provides for administrative or court action to collect wages under the MWA and other wage laws, as well as establishes other requirements. Under the Washington Law Against Discrimination, a person has the right to be free from discrimination related to a protected status, such as race, national origin, sex, veteran or military status, sexual orientation, and disability.

Domestic employers of foreign workers and international labor recruitment agencies must provide disclosure statements to foreign workers referred to or hired by a Washington employer. The disclosure statement is not required in certain circumstances. The disclosure statement must:

- be in English or, if the worker is not fluent or literate in English, another language that is understood by the worker;
- state that the foreign worker may be considered an employee under state law, is subject to state worker health and safety laws and laws on overtime and work hours, and may be eligible for workers' compensation and unemployment insurance;
- include itemized listings of the agency's fees and the employer's intended deductions from pay for food and housing;
- state that the foreign worker has the right to control the worker's travel and labor documents at all times, with some exceptions; and
- include a list of services or a hotline a foreign worker may contact if they think they may be a victim of trafficking.

The Department of Labor and Industries (L&I) has authority to and has posted a model disclosure form on its website. L&I must also integrate information on assisting human trafficking victims in posters and brochures, which must include the toll-free number of the National Human Trafficking Resource Center. An employer or agency failing to provide the disclosure statement is civilly liable to the foreign worker.

In 2016, the state appropriated funds to contract with the University of Washington Women's Center to conduct a study to research supply chain policies related to labor practices of small, medium, and large businesses. The study was required to:

- analyze whether there is a correlation between supply chain management practices that protect workers from human trafficking and unsafe working conditions and higher shareholder value and market share or both;
- examine the impact of corporate sourcing practices in social media feedback and in customer satisfaction;
- provide case studies and best practices in ethical sourcing practices protecting

- workers;
- recommend how to evaluate and monitor supply chain management related to labor and vendor management practices of companies without bias;
- make recommendations on how the state can design legislation on global ethical sourcing practices that is comprehensive, pragmatic and enforceable; and
- be presented to the House and Senate commerce and labor committees.

The study was presented to the Senate Labor & Commerce Committee in 2019.

**Summary of Bill (First Substitute):** Disclosure of Efforts to Eradicate Human Trafficking and Force Labor from Supply Chains. Every retail seller and manufacturer doing business in Washington and having annual worldwide gross receipts of \$100 million or more must disclose its efforts to eradicate human trafficking and forced labor from its direct supply chain for tangible goods offered for sale.

The disclosure must, at a minimum, disclose to what extent, if any, the retail seller or manufacturer does each of the following:

- engages in verification of product supply chains to evaluate and address risks of human trafficking and forced labor—the disclosure must specify which tiers of suppliers have been verified if the verification was not conducted by a third party;
- conducts third-party assessments of suppliers to evaluate supplier compliance with retail seller's or manufacturer's standards for human trafficking and forced labor in supply chains—the disclosure must specify if the verification was not an independent, unannounced audit;
- requires direct suppliers to certify that materials incorporated into the product comply with the laws regarding human trafficking and forced labor of the country or countries in which the direct suppliers are doing business;
- maintains internal accountability standards, a supplier code of conduct, and procedures for employees or contractors failing to meet a retail seller's or manufacturer's standards regarding human trafficking and forced labor in its direct supply chain; and
- provides retail seller's or manufacturer's employees and management, who have direct responsibility for supply chain management, training on human trafficking and forced labor, particularly with respect to mitigating risks within the supply chains of products.

The disclosure must be posted on the retail seller's or manufacturer's website with a link to the required information on the retail seller's or manufacturer's homepage. If the retail seller or manufacturer does not have a website, it must provide consumers with a written disclosure within 30 days of a written request.

The exclusive remedy for a violation is an action brought by the Attorney General for injunctive relief.

Report. By November 30th of each year, beginning in 2025, the Department of Revenue must submit a list of noncompliant retail sellers and manufacturers required to make the disclosure, including their entity names and unified business identifier numbers, to the Attorney General and Legislature.

Definitions. Definitions are provided for the terms manufacturer, retail seller, supplier, and supplier code of conduct.

Legislative findings are made.

**EFFECT OF CHANGES MADE BY LABOR & COMMERCE COMMITTEE (First Substitute):**

- Changes seller to retail seller.
- Defines retail seller to mean a person engaged in the business of making sales at retail within Washington State.
- Defines sale at retail to have the same meaning as RCW 82.04.050.
- Increases the annual worldwide gross receipts requirement to \$100 million from \$75 million for application to retail sellers and manufacturers.

**Appropriation:** None.

**Fiscal Note:** Available.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

**Effective Date:** The bill takes effect on January 1, 2025.

**Staff Summary of Public Testimony on Original Bill:** *The committee recommended a different version of the bill than what was heard.* PRO: According to a study by the International Labor Organization, 21 million people worldwide are victims of human trafficking. Corporations with multinational business need to be transparent with their supply chains to prevent human trafficking and hidden slavery. This bill will follow up on the recommendations of the UW's Women Center study. Younger people want to buy from transparent companies and know about the wages they pay their laborers, the working conditions, and their sustainability efforts. This bill will hold businesses accountable and makes a bold statement that criminal activity is not allowed in Washington supply chains. Washington businesses operating in other countries should also be held to Washington and U.S. standards. Additional issues such as brush picking should be added to the language. This bill is specifically about foreign workers who are brought in on visa programs, but the majority of human trafficked victims are not visa holders. This language should be adjusted to be more inclusive.

OTHER: This bill needs clarification on definitions. How will mass retailers know if

suppliers are upholding these standards? Washington should align its policy with California. This topic would be better handled at the federal level, as the federal government has more resources and are already taking on several policies.

**Persons Testifying:** PRO: Senator Manka Dhingra, Prime Sponsor; Rani Hong; Debra Fisher.

OTHER: Rose Gundersen; Bob Battles, Association of Washington Business (AWB); Charlie Brown, Consumer Technology Association.

**Persons Signed In To Testify But Not Testifying:** No one.