

110TH CONGRESS  
1ST SESSION

# S. 367

To amend the Tariff Act of 1930 to prohibit the import, export, and sale of goods made with sweatshop labor, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

JANUARY 23, 2007

Mr. DORGAN (for himself, Mr. GRAHAM, Mr. FEINGOLD, Mr. BROWN, Mr. BYRD, and Mr. SANDERS) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend the Tariff Act of 1930 to prohibit the import, export, and sale of goods made with sweatshop labor, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Decent Working Con-  
5 ditions and Fair Competition Act”.

6 **SEC. 2. FINDINGS AND PURPOSES.**

7 (a) FINDINGS.—Congress makes the following find-  
8 ings:

1           (1) Violations of core labor standards, as de-  
2           fined under the laws of the United States and the  
3           International Labor Organization, are widespread in  
4           factories that produce goods for sale in the United  
5           States.

6           (2) Factories that violate core labor standards  
7           are commonly referred to as sweatshops.

8           (3) Subjecting factory workers to sweatshop  
9           conditions that violate core labor standards is mor-  
10          ally offensive to the American people both in their  
11          roles as consumers and as investors, and is degrad-  
12          ing to workers forced to labor under sweatshop con-  
13          ditions.

14          (4) Workers have a right to be free of sweat-  
15          shop working conditions.

16          (5) Consumers have a right to know that the  
17          goods they purchase are not produced in sweatshops.

18          (6) Businesses have a right to be free from  
19          competition with companies that use sweatshop  
20          labor.

21          (7) Shareholders have a right to know that  
22          their investments are not supporting sweatshop  
23          labor.

1           (8) It is a deceptive trade practice and a form  
2 of unfair competition for a business to sell sweat-  
3 shop goods.

4           (9) Prohibiting the sale, manufacture, offer for  
5 sale, transportation, and distribution of sweatshop  
6 goods, regardless of the source of the goods, is con-  
7 sistent with the international obligations of the  
8 United States because the prohibition applies equally  
9 to domestic and foreign products and avoids any dis-  
10 crimination among foreign sources of competing  
11 products.

12       (b) PURPOSES.—The purposes of this Act are to—

13           (1) prohibit the import, export, or sale of goods  
14 made in factories or workshops that violate core  
15 labor standards; and

16           (2) prohibit the procurement of sweatshop  
17 goods by the United States Government.

18 **SEC. 3. DEFINITION OF CORE LABOR STANDARDS.**

19       (a) IN GENERAL.—In this Act, the term “core labor  
20 standards” means—

21           (1) the right of association;

22           (2) the right to organize and bargain collec-  
23 tively;

24           (3) a prohibition on the use of any form of  
25 forced or compulsory labor;

1 (4) a minimum age for the employment of chil-  
2 dren; and

3 (5) acceptable conditions of work with respect  
4 to minimum wages, hours of work, and occupational  
5 safety and health.

6 (b) ACCEPTABLE CONDITIONS.—For purposes of  
7 subsection (a)(5), acceptable conditions of work shall be  
8 determined by the laws, regulations, or competent author-  
9 ity of the country where the labor is performed.

## 10 **TITLE I—TARIFF ACT OF 1930**

### 11 **SEC. 101. IMPORTATION AND SALE OF SWEATSHOP GOODS**

#### 12 **PROHIBITED.**

13 Section 307 of the Tariff Act of 1930 (19 U.S.C.  
14 1307) is amended to read as follows:

### 15 **“SEC. 307. PROHIBITION ON IMPORT AND SALE OF CON-**

#### 16 **VICT-MADE GOODS AND SWEATSHOP GOODS.**

17 “(a) DEFINITIONS.—In this section:

18 “(1) CONVICT-MADE GOOD.—The term ‘convict-  
19 made good’ means any good, ware, article, or mer-  
20 chandise mined, produced, or manufactured wholly  
21 or in part in any foreign country by convict labor.

22 “(2) SWEATSHOP GOOD.—The term ‘sweatshop  
23 good’ means any good, ware, article, or merchandise  
24 mined, produced, or manufactured wholly or in part  
25 in violation of core labor standards as defined in sec-

1       tion 3 of the Decent Working Conditions and Fair  
2       Competition Act.

3       “(b) PROHIBITIONS.—It is unlawful for any person  
4 to—

5               “(1) import into the United States any convict-  
6       made good;

7               “(2) import into, or export from, the United  
8       States any sweatshop good;

9               “(3) introduce into commerce, sell, trade, or ad-  
10       vertise in commerce, offer to sell, or transport or  
11       distribute in commerce in the United States, any  
12       sweatshop good.”.

13 **SEC. 102. WAIVER AUTHORITY.**

14       (a) IN GENERAL.—The President, for reasons of na-  
15       tional interest, may recommend that the application of  
16       section 201 of this Act or section 307(b) (2) and (3) of  
17       the Tariff Act of 1930 (19 U.S.C. 1307) be waived in con-  
18       nection with the goods of any country with respect to 1  
19       or more of the principles and rights defined as core labor  
20       standards in section 3 of this Act. Any such recommenda-  
21       tion shall—

22               (1) be transmitted to the House of Representa-  
23       tives and the Senate setting forth the President’s  
24       reasons for the waiver;

1           (2) include, for each waiver recommendation, a  
 2           determination that the waiver is necessary to protect  
 3           the national interest of the United States; and

4           (3) include, for each principle or right for which  
 5           a waiver is recommended, an explanation of why the  
 6           President recommends waiving application of that  
 7           principle or right.

8           (b) PERIOD OF WAIVER.—A waiver under this sec-  
 9           tion shall be effective for a 12-month period unless Con-  
 10          gress enacts a joint resolution described in subsection (c).

11          (c) JOINT RESOLUTION REQUIREMENTS AND PROCE-  
 12          DURES.—

13           (1) RESOLUTION DESCRIBED.—For purposes of  
 14           this subsection, the term “resolution” means only a  
 15           joint resolution of the two Houses of Congress, the  
 16           matter after the resolving clause of which is as fol-  
 17           lows: “That Congress does not approve the waiver of  
 18           section 201 of the Decent Working Conditions and  
 19           Fair Competition Act or section 307(b) (2) and (3)  
 20           of the Tariff Act of 1930 (19 U.S.C. 1307) rec-  
 21           ommended by the President to Congress on  
 22           \_\_\_\_\_ with respect to the application of  
 23           \_\_\_\_\_ to the goods of\_\_\_\_\_.”,  
 24           with the first blank space being filled with the ap-  
 25           propriate date, the second blank space being filled

1 with the principle or right to be waived, and the  
2 third blank space being filled with the name of the  
3 country with respect to which the waiver of author-  
4 ity is disapproved.

5 (2) APPLICATION OF PROCEDURAL PROVI-  
6 SIONS.—The provisions of section 152 (b) through  
7 (f) of the Trade Act of 1974 (19 U.S.C. 2192 (b)  
8 through (f)) shall apply to resolutions described in  
9 paragraph (1).

10 (3) APPROVAL BY CONGRESS.—If Congress ap-  
11 proves a joint resolution, Congress shall send the  
12 resolution to the President before the end of the 90-  
13 day period beginning on the date that Congress re-  
14 ceives the waiver recommendation described in sub-  
15 section (a).

16 (4) EFFECT OF VETO.—If the President vetoes  
17 the joint resolution, the resolution is enacted into  
18 law if each House of Congress votes to override the  
19 veto on or before the later of the last day of the 90-  
20 day period referred to in paragraph (3) or the last  
21 day of the 15-day period, excluding any day de-  
22 scribed in section 154(b) of the Trade Act of 1974  
23 (19 U.S.C. 2194(b)), beginning on the date Con-  
24 gress receives the veto message from the President.

1           (5) INTRODUCTION.—A joint resolution to  
2           which this subsection applies may be introduced at  
3           any time on or after the date the President trans-  
4           mits to Congress the waiver recommendation de-  
5           scribed in subsection (a).

6           (d) TERMINATION OR EXTENSION OF WAIVER.—A  
7           waiver with respect to the goods of any country terminates  
8           on the day after the waiver authority granted by this sub-  
9           section ceases to be effective with respect to such country,  
10          unless an extension of the waiver authority is granted. The  
11          President may recommend an extension of the waiver au-  
12          thority in the same manner as the original recommenda-  
13          tion, except that the President may not recommend an ex-  
14          tension later than the date that is 30 days before the waiv-  
15          er authority expires. The President may, at any time, ter-  
16          minate by Executive order any waiver under this section.

17                   **TITLE II—FEDERAL TRADE**  
18                   **COMMISSION**

19           **SEC. 201. VIOLATION OF FEDERAL TRADE COMMISSION**  
20                   **ACT.**

21           (a) IN GENERAL.—It is unlawful for any person to  
22           introduce into commerce, sell, trade, or advertise in com-  
23           merce, offer to sell or transport or distribute in commerce  
24           any sweatshop good.



1 (b) SWEATSHOP GOOD.—For purposes of this title,  
2 the term “sweatshop good” means any good, ware, article,  
3 or merchandise mined, produced, or manufactured wholly  
4 or in part in violation of core labor standards, as defined  
5 in section 3 of this Act.

6 (c) ENFORCEMENT.—

7 (1) IN GENERAL.—The Federal Trade Commis-  
8 sion shall enforce the provisions of this section with  
9 respect to the prohibitions under subsection (a) as if  
10 the violation were an unfair or deceptive act or prac-  
11 tice proscribed under section 18(a)(1)(B) of the  
12 Federal Trade Commission Act (15 U.S.C.  
13 57a(a)(1)(B)).

14 (2) ACTIONS BY THE COMMISSION.—The Com-  
15 mission shall prevent any person from violating this  
16 title in the same manner, by the same means, and  
17 with the same jurisdiction, powers, and duties as  
18 though all applicable terms and provisions of the  
19 Federal Trade Commission Act (15 U.S.C. 41 et  
20 seq.) were incorporated into and made a part of this  
21 title. Any person that violates the provisions of this  
22 title shall be subject to the penalties and entitled to  
23 the privileges and immunities provided in the Fed-  
24 eral Trade Commission Act in the same manner, by  
25 the same means, and with the same jurisdiction,

1 power, and duties as though all applicable terms and  
2 provisions of the Federal Trade Commission Act  
3 were incorporated into and made a part of this title.

4 (3) INVESTIGATIONS.—Notwithstanding any  
5 other provision of law, the Federal Trade Commis-  
6 sion shall investigate any complaint received from a  
7 worker alleging a violation of this title with respect  
8 to a good, ware, article, or merchandise produced by  
9 that worker.

10 (4) REGULATIONS.—Not later than 180 days  
11 after the date of the enactment of this Act, the Fed-  
12 eral Trade Commission shall publish rules to carry  
13 out the provisions of this title.

14 **SEC. 202. PRIVATE RIGHT OF ACTION.**

15 (a) PRIVATE SUITS.—A person with standing to sue  
16 under subsection (c) may bring a civil action against any  
17 seller of goods, wares, articles, or merchandise on grounds  
18 of violation of section 201.

19 (b) JURISDICTION.—The United States district  
20 courts shall have jurisdiction, without regard to the  
21 amount in controversy or the citizenship of the parties,  
22 to enforce this section.

23 (c) STANDING TO SUE.—The following persons have  
24 standing to sue under this section:

1           (1) Competitors of the retailer of any good,  
2           ware, article, or merchandise sold in violation of sec-  
3           tion 201.

4           (2) Investors of the retailer of any good, ware,  
5           article, or merchandise sold in violation of section  
6           201.

7           (d) DAMAGES; INJUNCTIVE RELIEF; ATTORNEY  
8           COSTS AND FEES.—

9           (1) DAMAGES.—When a violation of section 201  
10          is established in any civil action arising under this  
11          section, the plaintiff shall be entitled to recover  
12          \$10,000 per violation or the fair market value of the  
13          goods, whichever is greater. The court may increase  
14          the award of damages if the court finds that the de-  
15          fendant willfully or knowingly violated section 201.

16          (2) INJUNCTIVE RELIEF.—The plaintiff may  
17          sue for injunctive relief against threatened loss or  
18          damage due to a violation of section 201.

19          (3) COSTS AND FEES.—The court shall award  
20          the cost of the suit, including reasonable attorneys'  
21          fees, to a prevailing plaintiff.

22          (e) INTERAGENCY COOPERATION.—All Federal de-  
23          partments and agencies shall cooperate with the Commis-  
24          sioner of U.S. Customs and Border Protection and the

1 Federal Trade Commission, to the extent practicable in  
2 the enforcement of this title.

3 (f) LIST OF VIOLATORS; DISCLOSURE AND PUBLICA-  
4 TION BY FEDERAL TRADE COMMISSION.—On January 1  
5 and July 1 of each year, the Federal Trade Commission  
6 shall publish in the Federal Register and post on an Inter-  
7 net website the following information:

8 (1) An alphabetical list of the name, address,  
9 and chief executive officer of each person that has,  
10 during the 2 years prior to publication, violated the  
11 provisions of this title, along with a summary de-  
12 scription of each violation and the cumulative num-  
13 ber of violations by each person on the list.

14 (2) A detailed description of each violation that  
15 includes the following information:

16 (A) The name, address, and chief executive  
17 officer of each violator.

18 (B) The circumstances under which core  
19 labor standards, as defined in section 3 of this  
20 Act, were violated in the course of the mining,  
21 production, or manufacturing of the goods in  
22 question.

1           **TITLE III—GOVERNMENT**  
2                           **PROCUREMENT**

3   **SEC. 301. GOVERNMENT PROCUREMENT OF SWEATSHOP**  
4                           **GOODS PROHIBITED.**

5           (a) AMENDMENT TO FEDERAL PROPERTY AND AD-  
6   MINISTRATIVE SERVICES ACT OF 1949.—Title III of the  
7   Federal Property and Administrative Services Act of 1949  
8   (41 U.S.C. 251 et seq.) is amended by adding at the end  
9   the following new section:

10   **“SEC. 318. PROHIBITION ON PROCUREMENT OF SWEAT-**  
11                           **SHOP GOODS.**

12           “(a) CERTIFICATION REQUIREMENT.—The head of  
13   an executive agency shall ensure that each covered con-  
14   tract entered into by such official for the procurement of  
15   property includes a clause that requires the contractor—

16                   “(1) to certify to the contracting officer that  
17           the contractor has made a good faith effort to deter-  
18           mine whether any product furnished under the con-  
19           tract is a sweatshop good, and that, on the basis of  
20           those efforts, the contractor is unaware that any  
21           such product is a sweatshop good; and

22                   “(2) to cooperate fully in providing reasonable  
23           access to the contractor’s records, persons, or prem-  
24           ises if requested by the contracting agency, the De-  
25           partment of Homeland Security, or the Department

1 of Justice for the purpose of determining whether  
2 any product furnished under the contract is a sweat-  
3 shop good.

4 “(b) INVESTIGATIONS.—Whenever a contracting offi-  
5 cer of an executive agency has reason to believe that a  
6 product furnished under a covered contract is a sweatshop  
7 good, the head of the executive agency shall refer the mat-  
8 ter for investigation to the Inspector General of the execu-  
9 tive agency and, as the head of the executive agency or  
10 the Inspector General determines appropriate, to the At-  
11 torney General and the Secretary of Homeland Security.

12 “(c) REMEDIES.—

13 “(1) IN GENERAL.—The head of an executive  
14 agency may impose remedies as provided in this sub-  
15 section if the head of the executive agency finds that  
16 the contractor—

17 “(A) has furnished under a covered con-  
18 tract a product that is a sweatshop good;

19 “(B) has submitted a false certification  
20 under subsection (a)(1); or

21 “(C) has failed to cooperate with an inves-  
22 tigation under this section.

23 “(2) TERMINATION OF CONTRACT.—The head  
24 of an executive agency may terminate a covered con-  
25 tract on the basis of a finding of a violation that oc-

1       curs under paragraph (1) after the date the require-  
2       ments of this section are implemented through the  
3       amendment of the Federal Acquisition Regulation  
4       under sections 6 and 25 of the Office of Federal  
5       Procurement Policy Act (41 U.S.C. 405 and 421).

6               “(3) DEBARMENT AND SUSPENSION.—The head  
7       of an executive agency may debar or suspend a con-  
8       tractor from eligibility for Federal contracts on the  
9       basis of a finding that the contractor has committed  
10      a violation described in paragraph (1). The debar-  
11      ment period may not exceed 3 years.

12              “(4) INCLUSION ON LIST OF PARTIES EX-  
13      CLUDED FROM FEDERAL PROCUREMENT AND NON-  
14      PROCUREMENT PROGRAMS.—The Administrator of  
15      General Services shall include on the List of Parties  
16      Excluded from Federal Procurement and Non-  
17      procurement Programs maintained by the Adminis-  
18      trator under part 9 of the Federal Acquisition Regu-  
19      lation each contractor that is debarred, suspended,  
20      proposed for debarment or suspension, or declared  
21      ineligible by the head of an executive agency on the  
22      basis that the contractor has committed a violation  
23      under paragraph (1).

24              “(5) REMEDIES NOT EXCLUSIVE.—This section  
25      shall not be construed to limit the use of other rem-

1 edies available to the head of an executive agency or  
 2 any other official of the Federal Government on the  
 3 basis of a finding under paragraph (1).

4 “(d) DEFINITIONS.—In this section:

5 “(1) COVERED CONTRACT.—The term ‘covered  
 6 contract’ means a contract for a total amount in ex-  
 7 cess of the micro-purchase threshold, as that term is  
 8 defined in section 32(f) of the Office of Federal Pro-  
 9 curement Policy Act (41 U.S.C. 428(f)).

10 “(2) SWEATSHOP GOOD.—The term ‘sweatshop  
 11 good’ means all goods, wares, articles, and merchan-  
 12 dise mined, produced, or manufactured wholly or in  
 13 part in violation of core labor standards, as defined  
 14 in section 3 of the Decent Working Conditions and  
 15 Fair Competition Act.”.

16 (b) AMENDMENT TO TITLE 10, UNITED STATES  
 17 CODE.—

18 (1) IN GENERAL.—Chapter 137 of title 10,  
 19 United States Code, is amended by adding at the  
 20 end the following new section:

21 “§ 2334. **Prohibition on procurement of sweatshop**  
 22 **goods**

23 “(a) CERTIFICATION REQUIREMENT.—The head of  
 24 an agency shall ensure that each covered contract entered



1 into by such official for the procurement of property in-  
2 cludes a clause that requires the contractor—

3           “(1) to certify to the contracting officer that  
4 the contractor has made a good faith effort to deter-  
5 mine whether any product furnished under the con-  
6 tract is a sweatshop good, and that, on the basis of  
7 those efforts, the contractor is unaware that any  
8 such product is a sweatshop good; and

9           “(2) to cooperate fully in providing reasonable  
10 access to the contractor’s records, persons, or prem-  
11 ises if requested by the contracting agency, the De-  
12 partment of Homeland Security, or the Department  
13 of Justice for the purpose of determining whether  
14 any product furnished under the contract is a sweat-  
15 shop good.

16           “(b) INVESTIGATIONS.—Whenever a contracting offi-  
17 cer of an agency has reason to believe that a product fur-  
18 nished under a covered contract is a sweatshop good, the  
19 head of the agency shall refer the matter for investigation  
20 to the Inspector General of the agency and, as the head  
21 of the agency or the Inspector General determines appro-  
22 priate, to the Attorney General and the Secretary of  
23 Homeland Security.

1           “(c) REMEDIES.—(1) The head of an agency may im-  
2 pose remedies as provided in this subsection if the head  
3 of the agency finds that the contractor—

4           “(A) has furnished under a covered contract a  
5 product that is a sweatshop good;

6           “(B) has submitted a false certification under  
7 subsection (a)(1); or

8           “(C) has failed to cooperate with an investiga-  
9 tion under subsection (b).

10          “(2) The head of an agency may terminate a covered  
11 contract on the basis of a finding of a violation that occurs  
12 under paragraph (1) after the date the requirements of  
13 this section are implemented through the amendment of  
14 the Federal Acquisition Regulation under sections 6 and  
15 25 of the Office of Federal Procurement Policy Act (41  
16 U.S.C. 405 and 421).

17          “(3) The head of an agency may debar or suspend  
18 a contractor from eligibility for Federal contracts on the  
19 basis of a finding that the contractor has committed a vio-  
20 lation described in paragraph (1). The debarment period  
21 may not exceed 3 years.

22          “(4) The Administrator of General Services shall in-  
23 clude on the List of Parties Excluded from Federal Pro-  
24 curement and Nonprocurement Programs maintained by  
25 the Administrator under part 9 of the Federal Acquisition

1 Regulation each contractor that is debarred, suspended,  
2 proposed for debarment or suspension, or declared ineli-  
3 gible by the head of an agency on the basis that the con-  
4 tractor has committed a violation under paragraph (1).

5 “(5) This section shall not be construed to limit the  
6 use of other remedies available to the head of an agency  
7 or any other official of the Federal Government on the  
8 basis of a finding under paragraph (1).

9 “(d) DEFINITIONS.—In this section:

10 “(1) The term ‘covered contract’ means a con-  
11 tract for a total amount in excess of the micro-pur-  
12 chase threshold, as that term is defined in section  
13 32(f) of the Office of Federal Procurement Policy  
14 Act (41 U.S.C. 428(f)).

15 “(2) The term ‘sweatshop good’ means all  
16 goods, wares, articles, and merchandise mined, pro-  
17 duced, or manufactured wholly or in part in violation  
18 of core labor standards, as defined in section 3 of  
19 the Decent Working Conditions and Fair Competi-  
20 tion Act.”.

21 (2) CLERICAL AMENDMENT.—The table of con-  
22 tents at the beginning of such chapter is amended  
23 by adding at the end the following new item:

“2334. Prohibition on procurement of sweatshop goods.”.

24 (c) IMPLEMENTATION THROUGH THE FEDERAL AC-  
25 QUISSION REGULATION.—Not later than 120 days after

1 the date of the enactment of this Act, the Federal Acquisi-  
2 tion Regulatory Council shall amend the Federal Acquisi-  
3 tion Regulation issued under sections 6 and 25 of the Of-  
4 fice of Federal Procurement Policy Act (41 U.S.C. 405  
5 and 421) to provide for the implementation of the require-  
6 ments of section 318 of the Federal Property of Adminis-  
7 trative Services Act of 1949 and section 2334 of title 10,  
8 United States Code, as added by subsections (a) and (b),  
9 respectively.

10 (d) REPORT.—Not later than 2 years after the re-  
11 quirements of this section and of section 318 of the Fed-  
12 eral Property of Administrative Services Act of 1949 and  
13 section 2334 of title 10, United States Code, as added by  
14 subsections (a) and (b), respectively, are implemented  
15 through the amendment of the Federal Acquisition Regu-  
16 lation pursuant to subsection (c), the Administrator of  
17 General Services, with the assistance of other executive  
18 agencies, shall submit to the Office of Management and  
19 Budget a report on the actions taken under such sections.

## 20 **TITLE IV—EFFECT ON STATE** 21 **LAW**

### 22 **SEC. 401. RULE OF CONSTRUCTION.**

23 Nothing in this Act or the amendments made by this  
24 Act shall be construed to preempt any law of a State or  
25 political subdivision of a State relating to labor standards

- 1 required in the mining, production, or manufacture of any
- 2 good, ware, article, or merchandise purchased by the State
- 3 or political subdivision.

○