

New California Law Requires Disclosures Regarding Human Trafficking and Slavery

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A new California law called “The California Transparency in Supply Chains Act of 2010” will go into effect Jan. 1, 2012. This law affects any retailers and manufacturers “doing business” in California with annual global gross receipts of \$100 million. The law requires companies to disclose on their website their policies and efforts to combat the use of slave labor or trafficked humans in their supply chains.

Unfortunately, the standard for “doing business” in California is the same complicated analysis as it is for taxes in California. Although for some companies it will not be hard to determine whether the Act will apply, for others such as direct internet-to-customer retailers or manufacturers that sell to distributors, determining whether the Act applies will be more of a challenge.

Companies are required to disclose and address the following five categories:

- ❖ Evaluate and address the risks of human trafficking and slavery in their product supply chains. These disclosures must state if companies are not using third parties to verify the risks in their supply chains.
- ❖ Require their direct suppliers to certify that the materials incorporated into company products comply with laws regarding slavery and human trafficking in the countries in which they are doing business.
- ❖ Conduct audits of their suppliers to evaluate compliance with company standards on trafficking and slavery. These disclosures must state whether independent, unannounced audits are conducted.
- ❖ Maintain accountability standards and procedures for employees or contractors that fail to meet corporate standards regarding slavery and human trafficking.
- ❖ Provide employees and managers, who have direct responsibility with supply chain management, with training on the mitigation of human trafficking and slavery risks.

Although the law does not require companies to take specific actions other than the disclosures, companies affected by the law should see this as an opportunity to actually take steps to make their supply chains free of slave labor or human trafficking. This Act is part of a trend by state and federal regulators toward supply chain transparency and traceability that will have far-reaching impacts across all manufacturers, retailers and distributors.

Current enforcement will come in the form of injunctive relief and attorney’s fees. It may also allow a lawsuit for alleged false statements that a product was made “free of slave or trafficked persons.”

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