



Human Trafficking Disclosure – What Do Smoot And Hawley Have To Do With It?

August 23, 2011 by [Keith Paul Bishop](#)

Last February, I wrote this [post](#) about SB 657, the [California Transparency in Supply Chains Act of 2010](#). This legislation will take effect on January 1, 2012 and will require retail sellers and manufacturers doing business in California to disclose their efforts to eradicate slavery and human trafficking from their supply chains for tangible goods offered for sale. Cal. Civ. Code § 1714.43(a). To be subject to this new requirement, a retail seller or manufacturer must have annual worldwide "gross receipts" that exceed \$100,000,000. The Act includes definitions of "doing business in this state", "gross receipts", "manufacturer" and "retail seller".

Because only the California Attorney General is vested with the authority to enforce the Act, I recently submitted a Public Records Act request for copies of all correspondence to and from the Attorney General's office regarding implementation of the act. As might be expected, several companies, trade groups and lawyers are seeking guidance from the Attorney General's office. However, the Attorney General's office doesn't seem to have any plans to issue guidance, furnish sample disclosures or provide feedback on proposed disclosures. In fact, I can't find any reference to the act on the Attorney General's [website](#). Senator Darrell Steinberg, the author of SB 657, did convene a small roundtable discussion in July "to help us better understand what sorts of expectations might be reasonable in terms of compliance."

In 2005, the California legislature enacted [SB 180](#) (Kuehl) which established the California Alliance to Combat Trafficking and Slavery. As required by SB 180, this task force submitted this [report](#) on human trafficking in California. California's current Attorney General, Kamala Harris, represented the [California District Attorney's Association](#) on the task force.

Yesterday, Broc Romanek [wrote](#) that Representative Carolyn Maloney (D-NY) has introduced the "[Business Transparency on Trafficking and Slavery Act](#)" (H.R. 2759). This bill would require companies to include in their annual reports to the Securities and Exchange Commission a disclosure describing any measures the company has taken during the year to identify and address conditions of forced labor, slavery, human trafficking, and the worst forms of child labor within the company's supply chains.

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The findings in the bill refer to California's new website disclosure law and the Smoot-Hawley Tariff Act of 1930, 46 Stat. 689. The Smoot-Hawley Tariff Act is best known for having dramatically raised tariffs on the eve of the Great Depression. In the ensuing decades, economists have debated whether the act caused, deepened, prolonged or had minimal effects on the ensuing world-wide economic collapse.

Section 307 of the the Smoot-Hawley Tariff Act, codified at 19 U.S.C. § 1307, generally prohibits the importation of goods mined, produced or manufactured in whole or in part by forced labor other than goods that are not mined, produced and manufactured in sufficient quantities in the United States to meet the consumptive demands of the United States. Although the Congressional findings included in H.R. 2759 refer specifically to the Smoot-Hawley Tariff Act, those provisions actually predate that act. See [The Tariff Act of October 3, 1913](#), 38 Stat. 195.

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