



California “Supply Chains Act” Takes Effect January 1, 2012

On September 30, 2010, [California Senate Bill 657](#), also known as the California Transparency in Supply Chains Act of 2010 (the “Supply Chain Act” or “Act”), was signed into law. The Supply Chain Act requires “retail sellers” and “manufacturers” doing business in California that conduct over \$100,000,000 in worldwide sales to disclose what efforts they have taken to eliminate slavery and human trafficking from their supply chain. ***The Supply Chain Act becomes effective on January 1, 2012.***

As explained in the bill, the law aims to “provide consumers with information regarding [the companies’] efforts to eradicate slavery and human trafficking from their supply chains” and to “educate consumers on how to purchase goods produced by companies that responsibly manage their supply chains.”

Many large “retail sellers” and “manufacturers” that are organized or domiciled outside of California are likely to be affected by the Act, even if the activities and operations that such “retail sellers” and “manufacturers” perform in California are relatively small.

Each company that is required to comply with the Supply Chain Act must, at a minimum, disclose whether, and to what extent, if any, the company has a(n):

1. **Verification Process** – The company engages in verification of product supply chains to evaluate and address risks of human trafficking and slavery, and whether the verification is conducted by a third party;
2. **Audit Process** – The company conducts audits of suppliers to evaluate supplier compliance with company standards for trafficking and slavery in supply chains, and whether the audits are independent and unannounced;
3. **Certification Process** – The company requires direct suppliers to certify that materials incorporated into the

product comply with the laws regarding slavery and human trafficking of the country or countries in which they are doing business;

4. **Accountability Standards** – The company maintains internal accountability standards and procedures for employees or contractors failing to meet company standards regarding slavery and trafficking; and
5. **Training** – The company provides company employees and management, who have direct responsibility for supply chain management, certain training on human trafficking and slavery, particularly with respect to mitigating risks within the supply chains of products.

The required disclosures must be made available on the company’s website with a “conspicuous link” to the disclosure placed on the company’s homepage. Moreover, companies without a website must provide written copies of the disclosure within 30 days of receiving a written request for the disclosures from a consumer.

The Supply Chain Act will be enforced by the California Franchise Tax Board and the California Attorney General’s Office. The exclusive remedy available to the California Attorney General for violations of the Act is an action for injunctive relief. The Act does not create a private right of action, nor does it carry any monetary penalties (but it does empower the California Attorney General to seek a court order requiring a company to implement specific procedures to fulfill the intent of the law). However, there may be other concerns or risks associated with not disclosing or falsely disclosing the requested information. For example, activists and investors could use the disclosures to pressure companies to take further action in this area. Fair trade activists may be aggressive in using the statute to shame corporations that

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have deficient anti-human trafficking programs. Such activists may push the envelope in litigation to try to find ways to use the statute without Attorney General involvement, or they may use extra-judicial methods to publicize violations. Also, retailers and others may require their suppliers to engage in these actions.

Companies that fit in the purview of the Supply Chain Act should also make sure that the disclosures provided are true and accurate, as an additional concern is that consumers may attempt to bring class action lawsuits for false advertising based on misleading disclosures.

For a more detailed analysis of the Supply Chain Act, please see our related [Memorandum](#), and feel free to direct any questions to Michael Black at mblack@loeb.com or 310.282.2357.

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