

**SB 578**  
**State Contractor – Sweatshop Labor Rules**  
Effective 1/1/04

Under existing law, a business providing goods or services under a contract to a state agency must certify that no foreign-made equipment, materials or supplies provided under contract are produced by forced labor, convict labor indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor, or with the benefit thereof.

This bill would delete the foreign-made restriction and include the following industries under this requirement - apparel, garments and corresponding accessories and the laundering thereof. In addition, there are new requirements upon contractors, including the Sweatfree Code of Conduct.

Contractors will be required to ensure that subcontractors also comply in writing with a specified code of conduct under penalty of perjury, and by providing that certain false certifications are a misdemeanor.

On or before February 1, 2004, the Department of Industrial Relations shall establish a contractor responsibility program, including a Sweatfree Code of Conduct, to be signed by all bidders on state contracts and subcontracts. The Sweatfree Code of Conduct shall list the requirements that contractors are required to meet.

There are some interesting provisions in this bill – including the following:

- "Exploitation of children in sweatshop labor" means all work or service exacted from or performed by any person under the age of 18 years in violation of more than one law of the country of manufacture governing wage and benefits, occupational health and safety, nondiscrimination, and freedom of association."
- "Abusive forms of child labor" means any of the following: All work or service exacted from or performed by any person under the age of 18 either under the menace of any penalty for its nonperformance and for which the worker does not offer oneself voluntarily, or under a contract, the enforcement of which can be accomplished by process or penalties; All work or service exacted from or performed by a child in violation of all applicable laws of the country of manufacture governing the minimum age of employment, compulsory education, and occupational health and safety."
- "Sweatshop labor" means all work or service extracted from or performed by any person in violation of more than one law of the country of manufacture governing wages, employee benefits, occupational health, occupational safety, nondiscrimination, or freedom of association."

- “Contractors and subcontractors in California shall comply with all appropriate state laws concerning wages, workplace safety, rights to association and assembly, and nondiscrimination standards as well as appropriate federal laws. Contractors based in other states in the United States shall comply with all appropriate laws of their states and appropriate federal laws. For contractors whose locations for manufacture or assembly are outside the United States, those contractors shall ensure that their subcontractors comply with the appropriate laws of countries where the facilities are located.”
- There may be no discrimination in hiring, salary, benefits, performance evaluation, discipline, promotion, retirement or dismissal on the basis of age, sex, pregnancy, maternity leave status, marital status, race, nationality, country of origin, ethnic origin, disability, sexual orientation, gender identity, religion, or political opinion.

The most interesting sections are the following:

- “Contractors and subcontractors shall maintain a policy of **not terminating any employee except for just cause**, and employees shall have access to a mediator or to a mediation process to resolve certain workplace disputes that are not regulated by the National Labor Relations Board. “ (Note this would invalidate any at-will language an employee may have signed with an employer.)
- “**All overtime hours shall be worked voluntarily.** Workers shall be compensated for overtime at either (A) the rate of compensation for regular hours of work, or (B) as legally required in the country of manufacture, whichever is greater.” And “There may be no form of forced labor of any kind, including slave labor, prison labor, indentured labor, or bonded labor, **including forced overtime hours.**”
- “No worker may be subjected to any physical, sexual, psychological, or **verbal harrassment or abuse**, including corporal punishment, under any circumstances, including, but not limited to, retaliation for exercising his or her right to free speech and assembly.” (Note: verbal abuse is not defined).
- “No worker may be forced to use contraceptives or take pregnancy tests. **No worker may be exposed to chemicals, including glues and solvents, that endanger reproductive health.**” (Note: there appears to be no exemption for exposures that are essential to a particular job.)