

118TH CONGRESS
1ST SESSION

S. _____

To amend the Fair Labor Standards Act of 1938 to prohibit employers from paying employees in the garment industry by piece rate, to require manufacturers and contractors in the garment industry to register with the Department of Labor, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mrs. GILLIBRAND introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To amend the Fair Labor Standards Act of 1938 to prohibit employers from paying employees in the garment industry by piece rate, to require manufacturers and contractors in the garment industry to register with the Department of 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 “Fashioning Account-
5 ability and Building Real Institutional Change Act” or the
6 “FABRIC Act”.

1 **SEC. 2. PAYMENT AND LIABILITY REQUIREMENTS IN THE**
2 **GARMENT INDUSTRY.**

3 (a) IN GENERAL.—The Fair Labor Standards Act of
4 1938 (29 U.S.C. 201 et seq.) is amended—

5 (1) by inserting after section 7 (29 U.S.C. 207)
6 the following:

7 **“SEC. 8. REQUIREMENTS FOR THE GARMENT INDUSTRY.**

8 “(a) PROHIBITION AGAINST PAYMENT BY PIECE
9 RATE.—No employer shall pay an employee employed in
10 the garment industry, who in any workweek is engaged
11 in commerce or in the production of goods for commerce,
12 or is employed in an enterprise engaged in commerce or
13 in the production of goods for commerce, by the piece or
14 unit, or by piece rate.

15 “(b) HOURLY RATES.—

16 “(1) IN GENERAL.—An employer shall pay each
17 employee employed in the garment industry, who in
18 any workweek is engaged in commerce or in the pro-
19 duction of goods for commerce, or is employed in an
20 enterprise engaged in commerce or in the production
21 of goods for commerce, at an hourly rate that is not
22 less than the rate in effect under section 6(a)(1).

23 “(2) INCENTIVE BONUSES.—Nothing in this
24 section shall be construed to prohibit incentive-based
25 bonuses for employees employed in the garment in-
26 dustry.

1 “(c) JOINT AND SEVERAL LIABILITY OF BRAND
2 GUARANTORS.—

3 “(1) IN GENERAL.—A brand guarantor who
4 contracts with an employer of an employee described
5 in paragraph (2) for the performance of services in
6 the garment industry shall share joint and several li-
7 ability with such employer for any violations of the
8 employer under this Act involving such employee
9 while the employee is performing work with respect
10 to such brand guarantor.

11 “(2) EMPLOYEES.—An employee described in
12 this paragraph is any employee employed in the gar-
13 ment industry who in any workweek is engaged in
14 commerce or in the production of goods for com-
15 merce, or is employed in an enterprise engaged in
16 commerce or in the production of goods for com-
17 merce.

18 “(3) SUBCONTRACTS.—For purposes of para-
19 graph (1), an employer of an employee described in
20 paragraph (2) includes any other person who,
21 through 1 or more subcontracts, subcontracts with
22 the employer of such an employee for the perform-
23 ance of services in the garment industry.

24 “(4) RULE OF CONSTRUCTION.—Nothing in
25 this subsection shall be construed to preclude a de-

1 termination of joint employment, in the garment in-
2 dustry or otherwise, for entities other than brand
3 guarantors.

4 “(d) NONAPPLICABILITY.—Subsections (a) and (b)
5 shall not apply for purposes of an employee employed in
6 the garment industry who is covered by a bona fide collec-
7 tive bargaining agreement that expressly provides for—

8 “(1) wages, hours of work, and working condi-
9 tions of the employee;

10 “(2)(A) a wage rate for all hours worked by the
11 employee in excess of 40 hours in a week that is
12 greater than one and one-half times the regular rate
13 at which such employee is employed; and

14 “(B) a minimum hourly rate of pay for the em-
15 ployee that is not less than 10 percent more than
16 the higher of—

17 “(i) the minimum wage rate under an ap-
18 plicable State law; or

19 “(ii) the minimum wage rate in effect
20 under section 6(a)(1); and

21 “(3) a process to resolve disputes concerning
22 nonpayment of wages.

23 “(e) REGULATIONS.—The Secretary may prescribe
24 such regulations or other guidance as may be necessary
25 to carry out this section.

1 “(f) DEFINITIONS.—In this section:

2 “(1) BRAND GUARANTOR.—The term ‘brand
3 guarantor’ means any person contracting for the
4 performance of garment manufacturing, including
5 through licensing of a brand or name, regardless of
6 whether the party with whom the person contracts
7 performs the manufacturing operations or hires gar-
8 ment contractors to perform the manufacturing op-
9 erations.

10 “(2) GARMENT.—The term ‘garment’ includes
11 any article of wearing apparel or accessory designed
12 or intended to be worn by an individual, including
13 clothing, hats, gloves, handbags, hosiery, ties, scarfs,
14 and belts.

15 “(3) GARMENT CONTRACTOR.—The term ‘gar-
16 ment contractor’—

17 “(A) means any person who, with the as-
18 sistance of an employee or any other individual,
19 is primarily engaged in garment manufacturing
20 for another person, including for another gar-
21 ment contractor, a garment manufacturer, or a
22 brand guarantor; and

23 “(B) includes a subcontractor that is pri-
24 marily engaged in garment manufacturing.

1 “(4) GARMENT INDUSTRY.—The term ‘garment
2 industry’ means the industry of garment manufac-
3 turing.

4 “(5) GARMENT MANUFACTURER.—The term
5 ‘garment manufacturer’ means any person who is
6 engaged in garment manufacturing who is not a gar-
7 ment contractor.

8 “(6) GARMENT MANUFACTURING.—

9 “(A) IN GENERAL.—The term ‘garment
10 manufacturing’ means—

11 “(i) sewing, cutting, making, proc-
12 essing, repairing, finishing, assembling,
13 pressing, or dyeing a garment, including a
14 section or component of a garment, de-
15 signed for or intended to be worn by an in-
16 dividual, which is to be sold or offered for
17 sale or resale;

18 “(ii) altering the design, or causing
19 another person to alter the design, of a
20 garment described in clause (i);

21 “(iii) affixing a label to a garment de-
22 scribed in clause (i);

23 “(iv) any other form of preparation of
24 a garment described in clause (i) by any

1 person contracting for such preparation;
2 and

3 “(v) any other operation or practice
4 as may be identified in regulations issued
5 by the Secretary consistent with the pur-
6 poses of this section.

7 “(B) EXCLUSIONS.—The term ‘garment
8 manufacturing’ does not include—

9 “(i) manufacturing of garments by an
10 individual who manufactures the garments
11 by himself or herself without the assistance
12 of a garment contractor, employee, or any
13 other individual;

14 “(ii) cleaning, altering, or tailoring
15 any garment , including a section or com-
16 ponent of a garment, after the garment
17 has been sold at retail; or

18 “(iii) any other form of manufac-
19 turing as may be identified in regulations
20 issued by the Secretary consistent with the
21 purposes of this section.”.

22 (2) in section 15 (29 U.S.C. 215(a))—

23 (A) in subsection (a)—

24 (i) in paragraph (5), by striking
25 “and”;

1 (ii) in paragraph (6), by striking the
2 period at the end and inserting “; and”;
3 and

4 (iii) by adding at the end the fol-
5 lowing:

6 “(7) to violate section 8.”; and

7 (B) by adding at the end the following new
8 subsection:

9 “(c) For the purposes of subsection (a)(7), it shall
10 be an affirmative defense to an action under such sub-
11 section against a brand guarantor (as defined in section
12 8(f)) if such brand guarantor shows no knowledge of the
13 violation of section 8 alleged in such action.”; and

14 (3) in section 16 (29 U.S.C. 216)—

15 (A) in subsection (b)—

16 (i) by inserting after the third sen-
17 tence the following: “Any person who vio-
18 lates section 8 shall be liable for such legal
19 or equitable relief as may be appropriate to
20 effectuate the purposes of such section, in-
21 cluding the payment of wages lost and an
22 additional equal amount as liquidated dam-
23 ages.”; and

1 (ii) in the last sentence, by striking
2 “15(a)(3)” and inserting “8, 15(a)(3),”;
3 and

4 (B) in subsection (c), by adding at the end
5 the following: “The authority and requirements
6 described in this subsection shall apply with re-
7 spect to a violation of section 8, as appropriate,
8 and the person in such violation shall be liable
9 for such legal or equitable relief as may be ap-
10 propriate to effectuate the purposes of such sec-
11 tion, including the payment of wages lost and
12 an additional equal amount as liquidated dam-
13 ages.”.

14 (b) CONFORMING AMENDMENT.—Section 10 of the
15 Fair Labor Standards Act of 1938 (29 U.S.C. 210) is re-
16 pealed.

17 (c) EFFECTIVE DATE.—The amendments made by
18 this section shall take effect on the date that is 6 months
19 after the date of enactment of this Act.

20 **SEC. 3. REGISTRATION OF GARMENT MANUFACTURERS**
21 **AND CONTRACTORS.**

22 (a) DEFINITIONS.—In this section:

23 (1) EMPLOYEE.—The term “employee” has the
24 meaning given the term in section 3 of the Fair
25 Labor Standards Act of 1938 (29 U.S.C. 203).

1 (2) GARMENT CONTRACTOR; GARMENT INDUS-
2 TRY; GARMENT MANUFACTURER; GARMENT MANU-
3 FACTURING.—The terms “garment contractor”,
4 “garment industry”, “garment manufacturer”, and
5 “garment manufacturing” have the meanings given
6 such terms in section 8(f) of the Fair Labor Stand-
7 ards Act of 1938 (29 U.S.C. 208(f)).

8 (3) PRODUCTION EMPLOYEE.—The term “pro-
9 duction employee”, with respect to a garment manu-
10 facturer or garment contractor, means any employee
11 of the manufacturer or contractor who is engaged in
12 the garment industry.

13 (4) SECRETARY.—The term “Secretary” means
14 the Secretary of Labor, acting through the Under-
15 secretary of the Garment Industry appointed under
16 section 4(b).

17 (b) REQUIREMENT TO REGISTER WITH THE DE-
18 PARTMENT OF LABOR.—Beginning on the date that is 6
19 months after the date of enactment of this Act, no gar-
20 ment manufacturer or garment contractor shall engage in
21 the garment industry during any year unless the manufac-
22 turer or contractor has registered for such year with the
23 Secretary in accordance with this section.

24 (c) REGISTRATION REQUIREMENTS.—

1 (1) IN GENERAL.—A garment manufacturer or
2 garment contractor registering under this section
3 shall submit to the Secretary—

4 (A) a form, in writing, containing the in-
5 formation described in paragraph (2);

6 (B) photographic verification of the iden-
7 tify of—

8 (i) each owner or partner of the gar-
9 ment manufacturer or garment contractor;
10 and

11 (ii) in the case the garment manufac-
12 turer or garment contractor is a corpora-
13 tion, each officer of the corporation;

14 (C) verification that the garment manufac-
15 turer or garment contractor has in effect a
16 workers' compensation insurance policy for all
17 production employees of the manufacturer or
18 contractor; and

19 (D) payment of the applicable registration
20 fee described in paragraph (3).

21 (2) INFORMATION IN FORM.—The information
22 described in this paragraph is each of the following:

23 (A) A statement of whether the garment
24 manufacturer or garment contractor is a sole
25 proprietorship, partnership, or corporation.

1 (B) The name, residential address, and
2 phone number of all production employees of
3 the garment manufacturer or garment con-
4 tractor.

5 (C) The name, residential address, phone
6 number, and social security number of—

7 (i) each owner or partner of the gar-
8 ment manufacturer or garment contractor;

9 (ii) if applicable, each officer of the
10 garment manufacturer or garment con-
11 tractor; and

12 (iii) if applicable, each of the 10 larg-
13 est shareholders of the garment manufac-
14 turer or garment contractor.

15 (D) The name, residential address, and so-
16 cial security number of each person with a fi-
17 nancial interest in the business of the garment
18 manufacturer in the garment industry, and the
19 amount of that interest (if any).

20 (E) In the case in which the garment man-
21 ufacturer or garment contractor is a corpora-
22 tion, a statement ensuring that no shares of the
23 corporation are listed on a national securities
24 exchange or regularly quoted in an over-the-

1 counter market by one or more members of a
2 national or an affiliated securities association.

3 (F) A statement of how long the garment
4 manufacturer or garment contractor has been
5 in business in the garment industry.

6 (G) If applicable, the tax identification
7 number of the garment manufacturer or gar-
8 ment contractor.

9 (H) A statement of the status of the gar-
10 ment manufacturer or garment contractor as a
11 manufacturer or contractor.

12 (I) A statement of whether the garment
13 manufacturer or garment contractor has con-
14 tracted with a labor organization, and, if so, the
15 name and address of such labor organization.

16 (J)(i) A statement as to whether, within
17 the preceding 3-year period, any of the fol-
18 lowing persons or entities have been found by a
19 court or the Secretary to have violated the Fair
20 Labor Standards Act of 1938 (29 U.S.C. 201
21 et seq.):

22 (I) The garment manufacturer or gar-
23 ment contractor.

1 (II) Any owner of or any partner of
2 the garment manufacturer or garment con-
3 tractor.

4 (III) In the case the garment manu-
5 facturer or garment contractor is a cor-
6 poration, any officer of the corporation or
7 any of the 10 largest shareholders of the
8 corporation.

9 (ii) If any person or entity described in
10 any of subclauses (I) through (III) of clause (i)
11 has violated the Fair Labor Standards Act of
12 1938 within the period described in such clause,
13 a statement of the nature of such violation and
14 the date on which such violation occurred.

15 (K) In the case of a contractor, a state-
16 ment of whether the contractor has subcon-
17 tracted for the cutting, sewing, dyeing, or as-
18 sembling of textiles or apparel or sections or
19 components of apparel.

20 (3) REGISTRATION FEE.—

21 (A) IN GENERAL.—The registration fee re-
22 quired under this subsection for each year shall
23 be not less than \$200.

24 (B) PRORATED FEES.—The Secretary may
25 prorate the registration fee under subparagraph

1 (A) for any registration described in subsection
2 (d)(2)(B)(i).

3 (C) USE.—The Secretary shall use the
4 total amount of each registration fee required
5 under this subsection for carrying out this sec-
6 tion.

7 (d) SUBMISSION.—

8 (1) CONSOLIDATION.—Each division, subsidiary
9 corporation, or related company of a garment manu-
10 facturer or garment contractor may, at the option of
11 the manufacturer or contractor, be named and in-
12 cluded under 1 registration under this section.

13 (2) TIMING.—

14 (A) IN GENERAL.—Except as provided
15 under subparagraph (B), each registration sub-
16 mitted under this section shall be filed not later
17 than the date that is 6 months after the date
18 of enactment of this Act and annually there-
19 after on a date determined by the Secretary.

20 (B) NEW MANUFACTURERS OR CONTRAC-
21 TORS.—In the case of a garment manufacturer
22 or garment contractor that begins garment
23 manufacturing operations or enters into a con-
24 tract for such operations for the first time after
25 the date of enactment of this Act, the registra-

1 tion required under this section shall be sub-
2 mitted—

3 (i) not later than 6 months after the
4 date on which the garment manufacturing
5 operations begin or the contractor enters
6 into the contract for such operations; and

7 (ii) annually thereafter on a date de-
8 termined by the Secretary.

9 (e) CERTIFICATES.—

10 (1) IN GENERAL.—The Secretary shall issue a
11 certificate of registration to each garment manufac-
12 turer or garment contractor that submits a registra-
13 tion meeting the requirements under this section.

14 (2) APPLICABILITY.—

15 (A) IN GENERAL.—Except as provided in
16 subparagraph (B), each certificate issued under
17 paragraph (1) shall be effective for a period of
18 12 months.

19 (B) NEW MANUFACTURERS OR CONTRAC-
20 TORS.—A certificate with respect to a registra-
21 tion submitted under subsection (d)(2)(B)(i)
22 shall be effective until the following registration
23 date as determined by the Secretary.

24 (3) POSTING.—Each garment manufacturer or
25 garment contractor receiving a certificate under

1 paragraph (1) shall post such certificate in a place
2 where it may be read by any employee of the manu-
3 facturer or contractor during the workday.

4 (4) SUSPENSION OR REVOCATION.—The Sec-
5 retary may suspend or revoke a certificate of reg-
6 istration issued under paragraph (1) if the garment
7 manufacturer or garment contractor that submitted
8 the registration—

9 (A) has knowingly made any misrepresen-
10 tation in the application for such certificate; or

11 (B) has failed to comply with this Act or
12 any regulation under this Act.

13 (f) RECORDKEEPING.—The Secretary shall, through
14 regulations, establish requirements for recordkeeping for
15 all garment manufacturers and garment contractors en-
16 gaging in the garment industry in order to assist in en-
17 forcing the requirements of this section.

18 (g) ENFORCEMENT.—

19 (1) IN GENERAL.—The Secretary may impose a
20 civil money penalty of not more than \$50,000,000
21 against any person who violates a requirement under
22 this section.

23 (2) CONSIDERATIONS.—In assessing the
24 amount of a penalty under this subsection, the Sec-
25 retary shall give consideration to—

1 (A) the size of the business of the person;

2 (B) whether the violation of the person

3 was committed in good faith;

4 (C) the gravity of the violation;

5 (D) the history of any previous violations

6 of the person under this section; and

7 (E) the history of the person in complying

8 with the recordkeeping requirements under sub-

9 section (f).

10 (h) REGULATIONS.—The Secretary may prescribe

11 such regulations or other guidance as may be necessary

12 to carry out this section.

13 **SEC. 4. UNDERSECRETARY OF THE GARMENT INDUSTRY.**

14 (a) IN GENERAL.—There is established in the De-

15 partment of Labor the Office of the Garment Industry (re-

16 ferred to in this section as the “Office”).

17 (b) UNDERSECRETARY.—

18 (1) IN GENERAL.—The Secretary of Labor shall

19 appoint an Undersecretary of the Garment Industry

20 (referred to in this section as the “Undersecretary”)

21 to head the Office.

22 (2) FUNCTIONS.—The Undersecretary shall—

23 (A) carry out section 3 using sums appro-

24 priated under subsection (c);

1 (B) carry out the national domestic gar-
2 ment manufacturing support program under
3 section 5; and

4 (C) provide assistance to the Administrator
5 of the Wage and Hour Division in enforcing
6 section 8 of the Fair Labor Standards Act of
7 1938 (29 U.S.C. 208).

8 (c) AUTHORIZATION OF APPROPRIATIONS.—

9 (1) IN GENERAL.—There are authorized to be
10 appropriated to the Secretary of the Labor—

11 (A) \$10,000,000 for fiscal year 2022, to
12 establish the Office and carry out the functions
13 described in subparagraphs (A) and (C) of sub-
14 section (b)(2); and

15 (B) \$3,000,000 for each of fiscal years
16 2023 through 2027, to carry out the functions
17 described in subparagraphs (A) and (C) of sub-
18 section (b)(2).

19 (2) AVAILABILITY.—Any sums appropriated
20 under the authorization contained in this subsection
21 shall remain available, without fiscal year limitation,
22 until expended.

23 **SEC. 5. NATIONAL DOMESTIC GARMENT MANUFACTURING**
24 **SUPPORT PROGRAM.**

25 (a) DEFINITIONS.—In this section:

1 (1) ELIGIBLE ENTITY.—The term “eligible enti-
2 ty” means an entity that is—

3 (A) a garment manufacturer that is incor-
4 porated in and performs garment manufac-
5 turing within the United States; or

6 (B) a nonprofit organization that provides
7 workforce development opportunities with re-
8 spect to the garment industry.

9 (2) GARMENT INDUSTRY; GARMENT MANUFAC-
10 TURER; GARMENT MANUFACTURING.—The terms
11 “garment industry”, “garment manufacturer”, and
12 “garment manufacturing” have the meanings given
13 such terms in section 8(f) of the Fair Labor Stand-
14 ards Act of 1938 (29 U.S.C. 208(f)).

15 (3) SECRETARY.—The term “Secretary” means
16 the Secretary of Labor, acting through the Under-
17 secretary of the Garment Industry appointed under
18 section 4(b).

19 (b) IN GENERAL.—From amounts made available
20 under subsections (f)(2) and (h), the Secretary shall
21 award grants, on a competitive basis, to eligible entities
22 to support garment manufacturing in the United States.

23 (c) APPLICATION.—An eligible entity seeking a grant
24 under this section shall submit to the Secretary an appli-

1 cation at such time, in such manner, and containing such
2 information as the Secretary may require, including—

3 (1) a description of the project that the eligible
4 entity proposes to carry out using such grant; and

5 (2) an implementation plan of such project that
6 reflects the expected participation of, and partner-
7 ship with, applicable labor organizations and rel-
8 evant community stakeholders.

9 (d) AWARD.—

10 (1) SELECTION.—In awarding grants under
11 this section to eligible entities, the Secretary shall
12 give priority to eligible entities—

13 (A) with a workforce that is covered by a
14 collective bargaining agreement;

15 (B) that are certified by a State in which
16 such eligible entity operates as a minority-
17 owned business, women-owned business, or vet-
18 eran-owned business; or

19 (C) who have operated as a garment man-
20 ufacturer within the United States for more
21 than 5 years.

22 (2) AMOUNT.—The amount of a grant awarded
23 under this section may not be more than
24 \$5,000,000.

1 (e) USE OF FUNDS.—An eligible entity receiving a
2 grant under this section shall use the grant funds to sup-
3 port—

4 (1) investments in training and workforce devel-
5 opment for employees within the garment industry;

6 (2) the acquisition of relevant tools and equip-
7 ment for garment manufacturing in the United
8 States;

9 (3) the acquisition of, and capital improvements
10 to, facilities for garment manufacturing in the
11 United States and to promote the health and safety
12 of employees in such facilities; or

13 (4) efforts to assist in educating employees
14 about rights under this Act and other relevant Fed-
15 eral, State, or local laws.

16 (f) RETURN OF FUNDS.—

17 (1) IN GENERAL.—An eligible entity receiving a
18 grant under this section shall return any unused
19 amount of such grant (in part or in full, as required
20 by the Secretary) if the Secretary determines the eli-
21 gible entity violated any provision of this Act, includ-
22 ing any amendment made by this Act.

23 (2) USE OF RETURNED FUNDS.—Amounts re-
24 turned under paragraph (1) shall be made available
25 for grant awards under subsection (b).

1 (g) REPORT.—Not later than 6 months after the date
2 on which an eligible entity receives a grant under this sec-
3 tion, the eligible entity shall submit to the Secretary a re-
4 port that includes an account of the use of grant funds
5 awarded under this section.

6 (h) AUTHORIZATION OF APPROPRIATIONS.—There is
7 authorized to be appropriated \$50,000,000 to carry out
8 this section.