

# SENATE BILL REPORT

## SB 5693

---

As Reported by Senate Committee On:  
Labor & Commerce, February 21, 2019

**Title:** An act relating to transparency in agricultural supply chains.

**Brief Description:** Creating transparency in agricultural supply chains.

**Sponsors:** Senators Saldaña, Keiser, Hasegawa and Das.

**Brief History:**

**Committee Activity:** Labor & Commerce: 2/15/19, 2/21/19 [DPS, DNP].

**Brief Summary of First Substitute Bill**

- Requires certain Washington State retail sellers of agricultural products to make annual disclosures on their websites' homepages about their efforts with respect to their product supply chains to evaluate and address risks of slavery and human trafficking, and to comply with the employment laws.
- Provides for statutory damages between \$500 and \$7,000 for violations, punitive damages for willful violations, and other relief.

---

### SENATE COMMITTEE ON LABOR & COMMERCE

**Majority Report:** That Substitute Senate Bill No. 5693 be substituted therefor, and the substitute bill do pass.

Signed by Senators Keiser, Chair; Conway, Vice Chair; Saldaña and Wellman.

**Minority Report:** Do not pass.

Signed by Senators King, Ranking Member; Braun and Walsh.

**Staff:** Susan Jones (786-7404)

**Background:** Several laws address employment standards. The Minimum Wage Act (MWA) sets forth overtime in addition to minimum wage requirements. The Industrial Welfare Act deals with wages, hours, and working conditions, including child labor, work apparel, and other matters. Under prevailing wage provisions, contractors and subcontractors on public works projects and public building service maintenance contracts must pay their

---

*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

workers prevailing wages. The Wage Payment Act provides for administrative or court action to collect wages under the MWA and other wage laws, as well as establishes other requirements. Under the Washington Law Against Discrimination, a person has the right to be free from discrimination related to a protected status, such as race, national origin, sex, veteran or military status, sexual orientation, and disability.

Domestic employers of foreign workers and international labor recruitment agencies must provide disclosure statements to foreign workers referred to or hired by a Washington employer. The disclosure statement is not required in certain circumstances. The disclosure statement must:

- be in English or, if the worker is not fluent or literate in English, another language that is understood by the worker;
- state that the foreign worker may be considered an employee under state law, is subject to state worker health and safety laws and laws on overtime and work hours, and may be eligible for workers' compensation and unemployment insurance;
- include itemized listings of the agency's fees and the employer's intended deductions from pay for food and housing;
- state that the foreign worker has the right to control the worker's travel and labor documents at all times, with some exceptions; and
- include a list of services or a hotline a foreign worker may contact if they think they may be a victim of trafficking.

The Department of Labor and Industries has authority to and has posted a model disclosure form on its website. The department must also integrate information on assisting human trafficking victims in posters and brochures, which must include the toll-free number of the National Human Trafficking Resource Center. An employer or agency failing to provide the disclosure statement is civilly liable to the foreign worker.

In 2016, the state appropriated funds to contract with the University of Washington women's center to conduct a study to research supply chain policies related to labor practices of small, medium, and large businesses. The study was required to:

- analyze whether or not there is a correlation between supply chain management practices that protect workers from human trafficking and unsafe working conditions and higher shareholder value and market share or both;
- examine the impact of corporate sourcing practices in social media feedback and in customer satisfaction;
- provide case studies and best practices in ethical sourcing practices protecting workers;
- recommend how to evaluate and monitor supply chain management related to labor and vendor management practices of companies without bias;
- make recommendations on how the state can design legislation on global ethical sourcing practices that is comprehensive, pragmatic and enforceable; and
- be presented to the House and Senate commerce and labor committees.

The study was presented to the Senate Labor & Commerce Committee in 2019.

**Summary of Bill (First Substitute):** Legislative findings are made. Every retail of agricultural products doing business in Washington State and having annual worldwide gross receipts of \$200,000 or more must:

- make an annual disclosure; and
- require its suppliers to report annually to them any violations of employment-related laws and incidents of slavery, peonage, and human trafficking, including court or arbitration rulings, citations or other rulings by governmental agencies, and criminal convictions.

The annual disclosure must, at a minimum, state:

- the retail seller's or manufacturer's specific actions taken with respect to its product supply chains to evaluate and address risks of slavery, peonage, and human trafficking; comply with the employment law obligations; and respect workers' human rights; and
- any information required to be reported from its suppliers.

The disclosure must be posted on the retail seller's or manufacturer's internet web site with a conspicuous and easily understood link to the required information placed on the business' homepage.

Failure of a supplier to report the information to the retail seller or manufacturer is a violation. Failure of a retail seller or manufacturer of agricultural products to take the required actions and make the disclosure is a violation.

The attorney general may commence a civil action.

If a court finds there was a violation, the court may award the plaintiff statutory damages between \$500 and \$7,000 for each violation, punitive damages for willful violations, reasonable costs and attorneys' fees, and declaratory or injunctive relief, as the court deems appropriate.

Agricultural product means cocoa, dairy, coffee, sugar, and fruit products but not wheat, potato, onions, asparagus, or other vegetable products. Supplier means an individual, business, or entity in any form, that is contracted by a retailer of agricultural products for the supply of agricultural products.

**EFFECT OF CHANGES MADE BY LABOR & COMMERCE COMMITTEE (First Substitute):** Makes legislative findings. Defines agricultural products and suppliers. Removes references to manufacturer. Increases the threshold for disclosure to retail sellers having worldwide gross receipts of \$200 million. Changes the timeline for supplier reporting to the retailer from time of violations to annually, from 30 days. Modifies the disclosures. Removes Washington residents' ability to file a civil action.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

**Effective Date:** The bill takes effect on January 1, 2020.

**Staff Summary of Public Testimony on Original Bill:** *The committee recommended a different version of the bill than what was heard.* PRO: Washington State is a leader in realizing that slavery and trafficking still exist in Washington, the United States and around the world. One of the items from the study was the recommendation for the bill. This makes sure consumers ask the hard questions to eradicate slavery and allow workers their human rights.

In 1995, the Brazilian government acknowledged before the United Nations the persistence of exploitation in Brazil. New Brazilian legislation holds employers accountable for problems. The corporations would remain on the list while repaying their debts to both workers and the state. The public disclosure has influenced investors to take seriously the risk of damage to the brands involved if labor abuses are publicly exposed. Despite the risk, even the largest brands have been connected with cases of slavery. A number of people were rescued from slavery. In Brazil, they have a list of companies having abuses. It makes corporations that do business in your state be transparent with its consumers, including the ones who are importing goods from Brazil.

Agricultural workers are particularly vulnerable, including sexual harassment and retaliation. Globally, farmers face issues, being stripped of human dignity and being beaten for trying to form unions. Under this legislation, suppliers would have to report to retailers and consumers would know. The legislation is important for consumers to know how workers are being treated while they provide us food. Every company should ensure that these things do not happen to their workers. Some companies staff crisis teams. If they have the money for that, they have money to inform consumers.

CON: The bill accuses suppliers of slavery and human trafficking. This is not true. The bill does not define suppliers or agricultural products.

Many midsized grocers fall under this bill. This is a liability in paperwork without any control over the supplier. This does not deal with the real problem of human trafficking.

Ninety-five percent of farms are family-owned. The accusations are outrageous. Farmers do not need litigation by any Washington resident. This puts a bad mark on our state and Washington is trade dependent. The bill is overly broad. Citations, even if not final, and small wage violations has to be reported. Disclosures would be out there forever.

**Persons Testifying:** PRO: Senator Rebecca Saldaña, Prime Sponsor; Marcel Gomes, Reporter Brasil; Maria Gonzalez, United Farm Workers; Indira Trejo, United Farm Workers of America / Global Impact Coordinator.

CON: Jim Jesernig, Washington Potato & Onion Association; Holly Chisa, Northwest Grocery Association; Carolyn Logue, Washington Food Industry Association; Tom Davis, Washington Farm Bureau; Diana Carlen, Washington Association of Wheat Growers; Steve Gano, Ste. Michelle Wine Estates; Bob Battles, AWB; Dan Wood, Washington State Dairy Federation; Dave Ducharme, Washington State Tree Fruit Association; Dan Coyne, Northwest Agricultural Cooperative Council, Food Northwest.

**Persons Signed In To Testify But Not Testifying:** No one.