

The California Transparency in Supply Chains Act: What non-US companies doing business in California should know

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California enacted the California Transparency in Supply Chains Act in 2010 to ensure that consumers are provided with information about the efforts of companies doing business in California to abolish human trafficking and slavery from product supply chains. There are three requirements for the statute to apply. The company must:

1. Identify itself as a retail seller or manufacturer on its California state tax returns;
2. Do business in the state of California;

3. Have annual worldwide gross receipts that exceed USD 100 million.

Any manufacturer doing business in California will usually meet the first two conditions. As to the third condition, the emphasis is on “worldwide”, meaning that the USD 100 million in sales do not necessarily have to occur in California, but only globally.

Disclosure requirements

If the statute is applicable, a company must: (i) disclose its “efforts to eradicate

slavery and human trafficking from its direct supply chain for tangible goods offered for sale”, and (ii) post this disclosure with a conspicuous and direct link to the required information on the home page of the company’s website. The company does not have to take any particular action against slavery or human trafficking. Instead, by imposing the disclosure requirement, the statute encourages good “corporate citizenship”. There are five areas in which a company must “disclose to what extent, if any”, it does the following:

1. **Verification:** Does the company engage in verification of product supply chains to evaluate and

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clients having subsidiaries in the United States, engaged in such diverse fields as industrial production, banking and insurance, trading, and general commerce.

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address risks of human trafficking and slavery, and, if so, is it conducted by a third party?

2. **Audits:** Does the company conduct audits of suppliers to evaluate supplier compliance with company standards for trafficking and slavery in supply chains, and, if so, are they independent and unannounced?

3. **Certifications:** Does the company require 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:** Does the company maintain internal accountability

standards for employees or contractors who fail to meet company standards regarding slavery and trafficking?

5. **Training:** Does the company provide to its employees and management who have direct responsibility for supply chain management training on human trafficking and slavery?

Remedies in the event of violation

The statute is enforced by the California Attorney General. However, at this time, remedies do not include fines or penalties. Instead, the statute authorises the Attorney General to

bring an action for injunctive relief directing compliance. Still, such litigation is public and may adversely affect a company's reputation.

Conclusion

International companies with global business might, unbeknownst to them, already be covered by the California statute. For some, it would be only a small step to add any required additional disclosures under the California statute to avoid the potential pitfall of enforcement actions in the future. For others, compliance with the California statute could become a first step in broader endeavours to address forced labour issues in their supply chains.