S T A T E O F N E W Y O R K

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2009-2010 Regular Sessions

I N A S S E M B L Y

April 1, 2009

Introduced by M. of A. P. RIVERA, CHRISTENSEN, BARRON, LANCMAN, McENENY, WALKER, MAYERSOHN, ROSENTHAL, JAFFEE, SPANO, EDDINGTON, ESPAILLAT -- Multi-Sponsored by -- M. of A. ARROYO, BRENNAN, CASTRO, COLTON, COOK, ENGLEBRIGHT, GOTTFRIED, JOHN, KOON, P. LOPEZ, V. LOPEZ, MENG, MILLMAN, ORTIZ, PERALTA, POWELL, RAMOS, J. RIVERA, N. RIVERA, ROBINSON, SCHIMEL, TITONE, WEISENBERG -- read once and referred to the Committee on Higher Education -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the education law, in relation to establishing a sweat-free code of conduct for apparel licensed by the colleges and universities of the state university; and to amend the labor law, in relation to the special task force for the apparel industry

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Short title. This act shall be known and may be cited as the "ethical business conduct in higher education act".

S 2. Legislative intent. The legislature hereby finds that the state university of New York has not responded to decades old requests that its campuses disaffiliate their business relationships with sweatshops in the production and licensing of campus apparel. It is now clear that voluntary action by each campus is no longer an option and that the time has come to require a system-wide set of rules and regulations be put in place by the chancellor and board of trustees of the state university of New York.

For years, lawmakers, religious and labor groups have criticized state university campus' affiliations with apparel manufacturers who are indifferent to the fact that workers making university apparel face abusive treatment, excessive working hours, dangerous conditions and wages that are inadequate to meet basic needs.

There continues to be a strong demand that all state university campuses diligently adopt sweat-free standards in the purchase of athletic apparel and in the licensing of campus merchandise. Advocates on behalf of working people deplore the repression and exploitation of apparel workers in Latin America and elsewhere in the world. The univer-

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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sities and colleges of the state university of New York should be a model for ethical business conduct, both for their students and the broader public. It is past time for the state university system administration and all its campuses to affiliate with the sweat-free and worker rights work of the Worker Rights Consortium and the Designated Supplier Program and end their business relationships that are de facto support for sweatshop conditions.

Presently 60 of the 64 state university campuses have failed to take the example or lead of the universities at Albany and Buffalo, which have adopted the Designated Supplier Program, and the colleges at New Paltz and Cortland, all four of which have affiliated with the Worker Rights Consortium to ensure sweat-free manufacturing.

It is obvious that where there has been strong leadership and commitment to protecting worker rights this issue has been resolved. However, we cannot wait indefinitely for the other 60 campuses to engage in ethical business behavior that demonstrates our national respect for human rights, worker rights and anti-child labor rights.

It is well understood by organized labor, religious organizations and social justice groups that the apparel industry continues to operate under a paradigm of cost-cutting without respect to human consequence, the tragic results of which are the sweatshop conditions that plague the supply chains of university licensed apparel. All state university campuses that have not already done so must adopt sweat-free codes of conduct to which apparel manufacturers producing university apparel must adhere.

It is the findings of the legislature that in order to comprehensively remedy this situation it must be required that the state university administration put in place strict policies for all its campuses with regard to how their apparel is manufactured. It is unacceptable that after all the years of calls to end such practices, campus administrators continue to ignore the violations of human rights that take place in order for their campus apparel to be manufactured and sold.

S 3. The education law is amended by adding a new section 361 to read as follows:

S 361. SWEAT-FREE CODE OF CONDUCT. 1. THE CHANCELLOR OF THE STATE UNIVERSITY SHALL, ON OR BEFORE JANUARY THIRTY-FIRST, TWO THOUSAND TEN, DEVELOP AND DRAFT A SWEAT-FREE CODE OF CONDUCT FOR THE PURCHASE AND LICENSING OF APPAREL BY STATE-OPERATED INSTITUTIONS. SUCH CODE, TO THE EXTENT PRACTICABLE, SHALL MEET OR EXCEED THE LABOR STANDARDS, AND BUSINESS AND FACTORY DISCLOSURE REQUIREMENTS ENUMERATED IN WORKER RIGHTS CONSORTIUM'S MODEL CODE OF CONDUCT. THE CODE SHALL REQUIRE EACH STATE-OPERATED INSTITUTION TO AFFILIATE WITH THE WORKER RIGHTS CONSORTIUM AND PARTICIPATE IN THE DESIGNATED SUPPLIER PROGRAM FOR THE PURPOSE OF EFFECTIVELY ENFORCING THE PROVISIONS OF SUCH CODE. FURTHERMORE, THE SWEAT-FREE CODE OF CONDUCT SHALL PROVIDE THAT EVERY CONTRACT BETWEEN A STATE-OPERATED INSTITUTION AND ANY APPAREL MANUFACTURER SHALL INCLUDE A PROVISION PROVIDING FOR THE TERMINATION AND NULLIFICATION OF SUCH CONTRACT UPON ANY FINDING OF A VIOLATION OF THE SWEAT-FREE CODE OF CONDUCT IN FACILITIES THAT SUCH MANUFACTURER OPERATES OR FROM WHOM SUCH MANUFACTURER PURCHASES PRODUCTS. SUCH CODE OF CONDUCT SHALL PROVIDE THAT NOTICE OF ANY SUCH VIOLATION MAY BE PROVIDED BY THE WORKER RIGHTS CONSORTIUM. THE SWEAT-FREE CODE OF CONDUCT SHALL PROVIDE FOR A REMEDIATION PROCESS WHEREBY ANY SUCH MANUFACTURER MAY BE GRANTED THE OPPORTUNITY TO TAKE CORRECTIVE ACTION PRIOR TO CONTRACT TERMINATION. SUCH REMEDIATION PROCESS, TO THE EXTENT PRACTICABLE, SHALL REFLECT THE PROCESS DESCRIBED IN THE MODEL CODE OF CONDUCT OF THE WORKER RIGHTS CONSORTIUM.

2. SUCH CHANCELLOR SHALL, ON OR BEFORE JANUARY THIRTY-FIRST, TWO THOUSAND TEN, SUBMIT TO THE STATE UNIVERSITY TRUSTEES THE CODE OF CONDUCT DEVELOPED AND DRAFTED PURSUANT TO SUBDIVISION ONE OF THIS SECTION. SUCH CODE OF CONDUCT SHALL BE ADOPTED BY THE STATE UNIVERSITY TRUSTEES ON OR BEFORE MARCH THIRTIETH, TWO THOUSAND TEN, AS RULES AND REGULATIONS APPLICABLE TO ALL STATE-OPERATED INSTITUTIONS. SUCH RULES AND REGULATIONS SHALL INCLUDE PROVISIONS FOR THE ENFORCEMENT THEREOF TO ENSURE FULL COMPLIANCE THEREWITH BY STATE OPERATED INSTITUTIONS.

3. ON OR BEFORE SEPTEMBER FIRST, TWO THOUSAND TEN, THE CHANCELLOR OF THE STATE UNIVERSITY SHALL SUBMIT A PRELIMINARY REPORT TO THE GOVERNOR AND THE LEGISLATURE WHICH SHALL INCLUDE A LIST OF THE STATE-OPERATED INSTITUTIONS WHICH HAVE COME INTO COMPLIANCE WITH THE SWEAT-FREE CODE OF CONDUCT, AND WHEN ANY PURCHASING AND LICENSING AGREEMENTS WITH APPAREL MANUFACTURERS WHICH HAVE FAILED TO COMPLY WITH THE PROVISIONS OF SUCH CODE OF CONDUCT, WILL EXPIRE. SUCH PRELIMINARY REPORT SHALL INCLUDE A LIST OF EACH STATE-OPERATED INSTITUTION THAT HAS AFFILIATED WITH THE WORKER RIGHTS CONSORTIUM AND PARTICIPATES IN THE DESIGNATED SUPPLIER PROGRAM.

4. THE CHANCELLOR OF THE STATE UNIVERSITY SHALL, ON OR BEFORE JANUARY THIRTY-FIRST, TWO THOUSAND ELEVEN, SUBMIT A FINAL REPORT TO THE GOVERNOR AND THE LEGISLATURE WHICH SHALL INCLUDE A LIST OF THE STATE-OPERATED INSTITUTIONS WHICH HAVE COME INTO COMPLIANCE WITH THE SWEAT-FREE CODE OF CONDUCT, A LIST OF EACH STATE-OPERATED INSTITUTION THAT HAS AFFILIATED WITH THE WORKER RIGHTS CONSORTIUM AND PARTICIPATES IN THE DESIGNATED SUPPLIER PROGRAM, AND WHEN ANY PURCHASING AND LICENSING AGREEMENTS WITH APPAREL MANUFACTURERS WHICH HAVE FAILED TO COMPLY WITH THE PROVISIONS OF SUCH CODE OF CONDUCT, WILL EXPIRE.

5. THE CHIEF EXECUTIVE OFFICER OF EACH STATE-OPERATED INSTITUTION WHICH HAS FAILED TO COMPLY WITH THE CODE OF CONDUCT OR AFFILIATE WITH THE WORKER RIGHTS CONSORTIUM AND PARTICIPATE IN THE DESIGNATED SUPPLIER PROGRAM ON OR BEFORE MARCH FIRST, TWO THOUSAND ELEVEN, SHALL SUBMIT, BY FIRST CLASS MAIL, TO THE GOVERNOR, EACH MEMBER OF THE LEGISLATURE AND EACH MEMBER OF THE STATE UNIVERSITY TRUSTEES A DETAILED EXPLANATION OF THE DELAY IN COMPLIANCE AND/OR AFFILIATION, AND WHEN FULL COMPLIANCE, AFFILIATION AND/OR PARTICIPATION WILL BE COMPLETED.

6. ON OR BEFORE SEPTEMBER FIRST, TWO THOUSAND ELEVEN, THE STATE UNIVERSITY TRUSTEES SHALL REPORT TO THE GOVERNOR AND THE LEGISLATURE ON THE ACTIONS THAT HAVE BEEN TAKEN TO ENFORCE COMPLIANCE WITH THE PROVISIONS OF THE CODE OF CONDUCT.

7. NO PROVISION OF THIS SECTION, OR ANY RULE, REGULATION OR CODE OF CONDUCT ADOPTED PURSUANT THERETO, SHALL BE DEEMED TO ESTABLISH ANY POWER OR DUTY IN VIOLATION OF ANY FEDERAL LAW, RULE OR REGULATION.

S 4. The opening paragraph of section 342 of the labor law, as amended by chapter 41 of the laws of 2004, is amended to read as follows:

The commissioner is authorized to establish a special task force for the purpose of concentrating enforcement of the labor law affecting production employees in the apparel industry in New York state and otherwise exercising the duties and powers set forth in sections three hundred forty-three and three hundred forty-four of this article. NOT LESS THAN ONE MEMBER OF SUCH TASK FORCE SHALL BE A REPRESENTATIVE OF THE STATE UNIVERSITY OF NEW YORK. Such special task force shall be empowered to investigate and conduct inspections at locations where an apparel industry contractor is operating.

S 5. This act shall take effect immediately.