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## Is Canada About to Get Another Forced Labor Law?

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CANADA COULD HAVE A NEW FORCED LABOR LAW ON THE BOOKS AS SOON AS THIS SUMMER. ROBERTO MACHADO NOA/GETTY IMAGES

[Canada](#) could have a new [forced labor](#) law on the books as soon as this summer.

The bill, known as S-211, would require most companies operating in the country to publicly disclose what they are doing to prevent and reduce the risk of forced and child labor in their supply chains. It zipped past the country's Senate in November and is currently awaiting approval in the House of Commons. If passed, it will go into force in 2024.

The threshold for compliance is lower than many similar rules, applying to entities that have made at least \$40 million in revenue but can have as few as 250 employees. Still, it only demands that they report on their due-diligence efforts, not remedy any violations should they arise. Penalties for flouting the would-be directive, however, are significant. Any person or business that ducks out of reporting or knowingly provides false or misleading information could be fined 250,000 Canadian dollars (\$187,637). This includes any "director, officer or agent or mandatary of the person or entity who directed, authorized, assented to, acquiesced in or participated in its commission."

### Lagging behind

Julie Miville-Dechéne, the senator who sponsored the legislation, has been trying to pass a law outlawing modern slavery since 2018. Canada made a commitment to do so in 2020 as part of the [Canada-United States-Mexico Agreement](#), though so far it has only detained [one shipment](#) to date: a 2021 shipment of China-manufactured women's and children's clothing that was later released after the importer successfully challenged the seizure. In contrast, Customs and Border Protection (CBP) in the United States has identified more than 2,300 entries valued at nearly \$740 million for further examination in the six months since the [Uyghur Forced Labor Prevention Act](#) (UFLPA), which imposes a rebuttable presumption that all products made in whole or in part in China's [Xinjiang](#) region are made with forced labor and therefore inadmissible, went into effect.

"Canada has made many commitments internationally, but we have yet to include them in our domestic legislation. I will repeat that we are lagging behind," Miville-Dechéne told the Senate during a second reading of S-211—her fourth attempt at passing a forced labor law—in December 2021. "Canada is a rich, free and modern society that respects the protection of human rights in principle. If we can't act

decisively to limit modern slavery practices in our supply chains, we run the risk of losing the moral authority that we cherish and being seen as hypocrites. That is not what I want.”

While the bill will not wipe out forced or child labor entirely, it’s a “vital first step” in requiring companies to take responsibility, she added. It would also help Canada “catch up to its peers.”

“Bill S-211 would help shed light on these practices and discourage them as much as possible, which would promote more honest competition that does not rely on slave labor,” Miville-Dechêne said. “In doing so, we will stop punishing, through our own inaction, the many companies that want to do the right thing.”

The United States is one neighbor that has aggressively pursued goods made with forced labor, now not only from Xinjiang but also those involving [North Korean workers](#). It’s vigorously staffing up, thanks to \$101 million in fiscal year 2023 funding—a 108 percent increase over fiscal year 2022 levels—that will help pay for an additional 300 UFLPA-enforcing positions.

“It’s looking like they’re tracking to target over \$2 billion dollars of goods this year,” Angela Santos, partner and customs practice leader at law firm [ArentFox Schiff](#), told Sourcing Journal. In March, CBP will be holding a “technology day,” where it’ll invite different supply chain technology providers to present their wares, “so that will be interesting,” she said.

The European Union, too, is poised to [block forced-labor goods](#) from entering its common market, though France and Germany already require companies to conduct due diligence in their supply chains, with the goal of rooting out human rights offenses. [Australia](#) and the United Kingdom are looking to beef up their existing modern slavery requirements, while Japan has given its [full-throated support](#) for fighting forced labor alongside the United States.

Canada, on the other hand, has fewer resources to bring down the full power of whatever regulations it does have, particularly compared with the United States.

“Canada really doesn’t seem to have the infrastructure for effective enforcement,” Allison Gill, forced labor program director at the Global Labor Justice-International Labor Rights Forum, a Washington, D.C.-based nonprofit, told Sourcing Journal. “There is no definition of forced labor in Canadian law, the Border Services Agency can respond to allegations or complaints from petitioners but can’t do investigations, and there really doesn’t seem to be a way to operationalize the Tariff Act amendment—no way to convey operational directives to port directors. We know goods made with forced labor are entering Canada and have alerted relevant authorities to [cotton goods from Turkmenistan](#) for sale in Canada.”

Santos noted that Canada has taken the tack of “public shaming” more than anything else. S-211 could bring more of the same, since companies aren’t obliged to fix anything.

“Some consumer could look at it and say, ‘Oh, they found forced labor in their supply chain and didn’t do anything,’” she said. Otherwise, much like the California Transparency in Supply Chains Act and even Britain’s current Modern Slavery Act, there is no other incentive to be more proactive. Not that it couldn’t still pose a burden to smaller companies that, unlike their larger brethren, haven’t been doing “some version” of this work, Santos said. Nor will S-211 affect only Canadian firms. Plenty of multinationals, including ones based in the United States, she noted, target the Great White North market.

### ‘Rushed’ and ‘unclear’

The proposal has attracted criticism, both for its scope and for the way it’s been shepherded through the halls of power.

Bob Kirke, executive director of the Canadian Apparel Federation, told Sourcing Journal that the association supports S-211 in spirit but that it was “rushed through for a variety of procedural reasons,” leaving the industry no opportunity to respond to specific provisions.

“Our request to testify, along with those of all other industry associations, was not accommodated,” he said. “It is still unclear what latitude there is to deal with some of the technical requirements through regulations.”

There is also a worry that the measure, as a reporting mandate, lacks the teeth to require companies to change their behavior.

SB-211, Gill said, does not prescribe outcomes, such as requiring all businesses to map their supply chains. Instead, it outlines procedures, compelling companies to report on their operations, policies and processes. Gill isn’t a fan of modern slavery reporting requirements anyway. She would rather see countries adopt “robust” due diligence requirements on companies in line with the United Nations Guiding Principles and Organisation for Economic Co-operation and Development Due Diligence Guidance.

“Eliminating forced labor from supply chains isn’t some unattainable mystery and it isn’t achieved through requiring companies to produce reports,” Gill said. “The best antidote to forced labor is protecting freedom of association and [collective bargaining](#). Companies should be required to engage in real due diligence, map and trace their supply chains down to the raw material levels, engage with stakeholders, especially workers, around conditions at suppliers—don’t cut and run—and, where remediation isn’t possible, such as instances of state-imposed forced labor as in the Uyghur region or [Turkmenistan](#), they should cut ties and redirect sourcing.”

Emily Dwyer, policy director at the Canadian Network on Corporate Accountability, agreed that the measure is a “flawed and meaningless piece of legislation” without genuine consequences for companies that choose to ignore human rights malfeasance in their operations.

“Bill S-211 merely creates the appearance of action to end modern slavery without actually doing anything about it,” she wrote on the advocacy network’s website in November. “Simply put, a law that requires you to report but does not require you to stop the harm you are causing may be easy to pass, but it is also meaningless.”

The Office of the Canadian Ombudsperson for Responsible Enterprise (CORE), which reviews complaints about possible human rights abuses by Canadian companies when those businesses work outside the country in the garment, mining, and oil and gas sectors, took a more diplomatic approach. While CORE “welcomes all measures aimed at strengthening respect for human rights by Canadian companies in their operations and supply chains abroad” it also “respectfully” submits that the S-211 can be strengthened, such as by including labor trafficking to its “purpose” section, imposing stricter threshold conditions and increasing oversight through a specialized, independent body.

### A ‘long time coming’

For Leonardo Bonanni, founder and CEO of supply chain traceability platform [Sourcemap](#), the bill is a “long time coming,” but reporting only “scratches the surface” of the data a company needs to collect. It’s indicative of the work it’s doing, but the “real work” is behind the scenes.

“It’s really unfair for businesses that are being responsible about using forced labor to be competing on the same market as businesses that don’t know or don’t care,” Bonanni told Sourcing Journal. “So I think the reporting requirement is not as important as the fact that these regulations have real enforcement behind them.”

Until all the major economies band together to have similar enforcement structures, however, there will always be “too much opportunity” for products tainted with forced labor to reach consumers.

His advice to brands right now? Know thy supplier—and your supplier’s supplier. Even if current efforts are scattershot, the legislative net as a whole is tightening. And the only way to have an “insurance policy” against potential enforcement is to map out your supply chain, monitor it for modern slavery risks and institute corrective actions where needed.

“There’s no worse time to map your supply chain than after you’ve had a Withhold Release Order, which is when customs seizes a container,” Bonanni said.

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