Calendar No. 1011

98TH CONGRESS 2d Session | SENATE | REPORT 98-529

LABELING OF TEXTILE FIBER AND WOOL PRODUCTS

JUNE 25, 1984.—Ordered to be printed

Mr. PACKWOOD, from the Committee on Commerce, Science, and Transportation, submitted the following

REPORT

[To accompany S. 1816]

The Committee on Commerce, Science, and Transportation, to which was referred the bill (S. 1816) to amend the Textile Fiber Products Identification Act, the Tariff Act of 1930, and the Wool Products Labeling Act of 1939 to improve the labeling of textile fiber and wool products, having considered the same, reports favorably thereon with an amendment in the nature of a substitute and an amendment to the title and recommends that the bill do pass.

PURPOSE OF BILL

The objectives of S. 1816, as reported, are to clarify and improve country-of-origin labeling requirements for textiles and increase consumer awareness at the time of purchase of the product's country of origin. By using "time of purchase", the Committee is referring to the point in time the consumer pays for or promises to pay for an item and thereby receives an interest in the item.

The bill requires conspicuous country of origin labeling on domestic and foreign-made textile, fiber and wool products. Country-of-origin information is also required in mail order promotional descriptions for textile, apparel and wool products sold in the United States.

BACKGROUND AND NEEDS

Country-of-origin labeling is now required by the Textile Fiber Products Identification Act. This law is enforced by the Federal Trade Commission (FTC). In addition, the FTC has written interpretive regulations.

An imported textile or the package in which it is sold is now required to bear a stamp or tag showing the country where it was manufactured or processed. The label is required on textile goods imported

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for household use. In addition, by regulation, the FTC has required the label to be "conspicuously affixed" to the product. U.S.-produced products are not required to display a country-of-origin label.

Despite these requirements, consumers are sometimes misled as to the country of origin of textile and wool products. In part, this is because the label showing the country of origin is attached inconspicuously. In addition, bundled textile products with the country of origin marked only on the bundle or package are sometimes separated once they enter the United States. Finally, the statutes concerning country-of-origin labeling are not extensive, and some confusion as to implementation and enforcement apparently exists.

Where labels are inconspicuously placed or not attached at all, foreign-made textile products are easily mistaken for American-made products, since there is no law which requires domestically produced products to be labeled with the country of origin.

Even when labels are correctly attached, consumers who purchase textile products by mail may be unable to determine a product's country of origin because they are not able to examine the item at the time or point of purchase.

Legislative History

S. 1816 was introduced by Senator Thurmond on August 4, 1983. The bill was the subject of a hearing before the Commerce Committee's Consumer Subcommittee on April 25, 1984. At the hearing, testimony was received from interested parties including Senator Thurmond, domestic textile manufacturers, textile labor unions, and a textile importer. Written testimony was submitted by the FTC and a retail trade group.

On June 13, 1984, the Committee ordered S. 1816 reported with an amendment in the nature of a substitute, and an amendment to the title.

Summary of Major Provisions

As reported, S. 1816 adds more extensive and specific labeling requirements to the Textile Fiber Products Identification Act and the Wool Products Labeling Act of 1939. The bill requires conspicuous placement of labels which contain country-of-origin information, requires both U.S. and foreign products to be labeled with the country of origin and requires labeling on product packaging, in addition to the item or items.

S. 1816 also requires limited country-of-origin disclosure in mail-order catalogues and direct-marketing literature offering textile products. Each printed textile product description would state that the product is made in the United States, imported, or both. If the product is imported, the specific country would not have to be identified in the catalogue description, as long as the word "imported" or other words to that effect are included.

Estimated Costs

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate and section 403 of the Congressional Budget Act of 1974, the Committee provides the following cost estimate, prepared by the Congressional Budget Office:

U.S. Congress,
Congressional Budget Office,
Washington, DC, June 14, 1984.

Hon. Bob Packwood,
Chairman, Committee on Commerce, Science and Transportation, U.S. Senate, Dirksen Senate Office Building, Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office has reviewed S. 1816, the Textile Fiber and Wool Products Identification Improvement Act, as ordered reported by the Senate Committee on Commerce, Science and Transportation, June 13, 1984.

We expect that enactment of S. 1816 would cost the Federal Government approximately $100,000 in 1985 and somewhat less in each fiscal year thereafter. No additional costs to state or local governments are expected to result from enactment of this bill.

S. 1816 would require that all textile products be labeled as to their country of origin. Mail order catalogues or sales literature would also be required to state this information. According to the Federal Trade Commission (FTC), which would be required to enforce these changes to current law, one-time costs of approximately $100,000 in fiscal year 1985 would be required to issue new regulations. Annual enforcement costs are not expected to increase significantly, unless the number of complaints increases substantially as a result of these changes.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

Rudolph G. Penner,
Director.

Regulatory Impact Statement

In accordance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee provides the following evaluation of the regulatory impact of the legislation, as reported.

Although S. 1816, as reported, contains extensive country-of-origin labeling requirements, the regulatory impact on the textile industry, if the bill is enacted, should be minimal. Many of the labeling requirements reflect current FTC regulations and advisory opinions.

NUMBER OF PERSONS COVERED

The number of persons covered by country-of-origin textile and wool labeling would expand under S. 1816. Currently, only foreign textile and wool producers, and domestic producers using foreign

materials, are covered by country-of-origin labeling provisions. S. 1816 extends country-of-origin labeling to U.S. textile and wool product manufacturers. The Committee believes the additional coverage is needed to clarify the country of origin of domestically produced goods. This view was supported at the hearing on S. 1816 by representatives of the domestic textile and wool industry, the industries most affected by the labeling requirements of S. 1816.

S. 1816 also contains a provision requiring mail-order and direct mail textile retailers to disclose whether their products are "imported" or "made in the U.S.A.". Such retailers are not now required by law or regulation to include such information in their sales literature. A 1969 FTC advisory opinion (34 Fed. Reg. 14,517; FTC Advisory Opinion Digest § 15.369) held that an importer of women's panty hose was required to make a clear and conspicuous disclosure of the foreign origin of the product in all mail-order promotional material. The FTC has viewed this opinion as applicable to all mail-order imported textile retailers. Accordingly, S. 1816, as reported, imposes a new regulatory burden only on mail-order retailers of domestic textile products. The Committee believes this expanded coverage is necessary since mail-order purchasers do not otherwise have the opportunity to be apprised of a textile or wool product's country of origin at the time of purchase.

ECONOMIC IMPACT

Enactment of S. 1816 would impose some additional cost on domestic textile manufacturers, arising from the need to label each garment as made in the United States. However, these costs would be small since new tags may not be necessary and few additional words are required. All domestic industry representatives who testified at the hearing on S. 1816 were willing to assume the additional cost.

Additional costs would also be imposed on mail-order and direct mail retailers offering domestic textile products. In the Committee's opinion, such costs are justified by the desirability of disclosing a product's origin to mail-order consumers at the time of purchase.

PRIVACY

S. 1816 will have no impact on the privacy of individuals affected by the bill.

PAPERWORK

No additional reporting requirements are imposed by S. 1816.

SECTION-BY-SECTION ANALYSIS

SECTION 1—SHORT TITLE

The first section provides that this Act may be called the "Textile Fiber and Wool Products Identification Improvement Act".

SECTION 2—TEXTILE LABELING

Section 2 amends section 4 of the Textile Fiber Products Identification Act (Act of Sept. 2, 1958, Pub. L. No. 85-897, 72 Stat. 1717) (codified at 15 U.S.C. §§ 70–70k (1980)) by adding a new paragraph

that requires textile fiber products manufactured or processed in the United States to be labeled as such. The amendment applies only to goods sold in the United States and does not apply to goods not covered by the Textile Fiber Products Identification Act. This amendment is intended to be consistent with current FTC country-of-origin labeling requirements, including its standards for determining when textile products are made in the United States and may be labeled as such.

SECTION 3—TEXTILE PACKAGE LABELING

The third section amends section 4 of the Textile Fiber Products Identification Act, by adding language that requires a country-of-origin label on any textile package intended for sale to the ultimate consumer. This label would be in addition to the label or tag on the product itself. A separate tag on the package is not required if the package is transparent, and all information on the label attached to the product can be clearly read.

Section 3 exempts hosiery from the requirement that a country-of-origin label be attached, provided that: (1) the hosiery package shows the country of origin; (2) the package is intended for sale to the ultimate consumer; and (3) the information on the package is applicable to all hosiery contained in the package. The Committee adopted this exception because it understood that attachment of a country-of-origin tag to the actual hosiery product would be impractical and unsightly. The Committee intends that this exception apply only to hosiery products.

SECTION 4—MAIL ORDER DISCLOSURE AND LOCATION OF TAG

This section adds language to section 4 of the Textile Fiber Products Identification Act to require that all textile fiber product descriptions contained in mail-order catalogues and direct-marketing literature state that the textile product advertised was "made in the U.S.A.", "imported" or both.

S. 1816, as reported, requires only products produced in the United States to be identified with the specific country-of-origin in mail-order and direct-marketing literature. For textile goods not produced in the United States, the specific country of origin is not required, so long as the product's description makes clear that the product was not produced in the United States.

The Committee chose not to require foreign-produced goods to identify the specific country of origin based on testimony during the hearing on S. 1816 that some mail-order and direct marketing retailers purchase identical textile products from two or more foreign countries, and market them as the same product.

Moreover, when the catalogue or circular offering the textile product is printed, the retailer may not know which foreign country will produce the product. Because of the disclosure burden these uncertainties potentially impose on mail-order and direct-marketing retailers, the Committee concluded that identification of the specific foreign country of origin was not necessary in mail-order and direct-marketing literature. The Committee expects the specific country of origin would be identified on the textile product itself, as well as any packaging, pursuant to sections 2 and 3 above.

The Committee does not intend to imply that the exact words "made in the U.S.A." or "imported" are the only acceptable phrases in mail-order or direct-marketing literature. Other words or phrases with the same meaning may also be used. For instance, in place of the word "imported" the retailer could use "product of foreign country" or disclose the specific foreign country where the product was manufactured. The Committee intends only that mail-order and direct-marketing consumers be able to determine, at the time of purchase, whether the product was produced in the United States or imported.

The country-of-origin disclosure in mail-order and direct marketing literature should be located so that it is plainly visible to consumers and clearly explains the country of origin of each product. The Committee anticipates this can best be accomplished by including the country-of-origin disclosure with each textile product description. Some other arrangement in the catalogue or sales literature may be used, however, provided the country-of-origin disclosure is conspicuous and not misleading. With respect to both the appropriate disclosure language to be used and the location of the disclosure, the Committee expects the FTC to promulgate guidelines and provide assistance to retailers which will implement the objectives of the bill.

Section 4 states it applies to mail-order catalogues and mail-order promotional materials "used in the direct sale or direct offering for sale" of textile products. Because the Committee's intent is to provide notice of the textile products' country of origin at the time and point of purchase, mail-order catalogues and promotional material should be defined so as to include any printed material or product samples distributed or shown to consumers and from which they may purchase textile products, by mail, telephone or some other method, without examining the actual product purchased. Section 4 is not intended to apply to any nonprint advertising.

Section 4 also requires that the textile product's tag, stamp or label disclosing the country of origin be located in the most conspicuous place on the inner side of the textile product, or on the textile product. If the product has a neck, the most conspicuous place on the inside would be the center of the neck, midway between the shoulder seams. This specific language concerning textile products with necks is intended by the Committee to allow location of the country-of-origin marking at the same location now required by the United States Customs Service pursuant to the Tariff Act of 1930.

The section 4 provision concerning the most conspicuous location is not intended to change the FTC's interpretation of conspicuous location as required in the Commission's rules 15 and 16 (16 C.F.R. § 303.15–.16 (1984)) promulgated pursuant to the Textile Fiber Products Identification Act. The Committee's most conspicuous location language was included to clarify congressional intent that country-of-origin tags must be conspicuous and to indicate congressional support for FTC efforts to assure conspicuous location of these tags.

SECTION 5—WOOL LABELING

This section amends section 4 of the Wool Products Labeling Act of 1939 (Act of Oct. 14, 1940, ch. § 71, 54 Stat. 1128) (codified as amended at 15 U.S.C. §§ 68–68j), by adding a paragraph requiring all wool

products sold in the United States, and covered by the act, to be labeled with the country of origin. This section is intended to be consistent with current FTC country-of-origin labeling requirements, including its standards for determining when textile products are made in the United States and may be labeled as such.

SECTION 6—MAIL ORDER DISCLOSURE AND LOCATION OF TAG

This section adds language to section 4(a) of the Wool Products Labeling Act of 1939 to require that all wool product descriptions contained in mail-order catalogues and direct-marketing literature state that the textile product advertised was "made in the U.S.A.", "imported" or both.

The Committee intends that this section make the same substantive changes in the Wool Products Labeling Act of 1939 as those made in the Textile Fiber Products Identification Act, by section 4 of this bill. Accordingly, mail-order and direct-market retailing of wool products is to be subject to the same requirements as those imposed on textiles as explained in this report's discussion of section 4.

Section 7 also requires that the wool product's tag, stamp or label disclosing the country of origin be located in the most conspicuous place on the inner side of the wool product, or on the outside of the wool product. If the product has a neck, the bill provides the most conspicuous place on the inside would be the center of the neck, midway between the shoulder seams. The provisions in section 7 are intended to amend the substance of the Wool Products Labeling Act of 1939 in the same way section 4 of this bill amends the Textile Fiber Products Identification Act.

SECTION 7—WOOL PACKAGE LABELING

Section 7 of S. 1816 amends section 5 of the Wool Products Labeling Act of 1939, by adding language that requires a country-of-origin label on any wool product package intended for sale to the ultimate consumer. This label would be in addition to the label or tag on the product itself. A separate tag on the package is not required if the package is transparent, and all information on the label attached to the product can be clearly read.

Section 7 also excepts hosiery from the requirement that a country-of-origin label be attached provided the hosiery package shows the country of origin the package is intended for sale to the ultimate consumer; and the information on the package is applicable to all hosiery in the package. The Committee adopted this exception because it understood that the attachment of a country-of-origin tag to the actual hosiery product would be impractical. The Committee intends that this exception apply only to hosiery products.

SECTION 8—EFFECTIVE DATE

This section provides that the amendments made by S. 1816 shall be effective 90 days after the bill's enactment. The Committee intends that the bill's provisions shall apply only to products and advertising literature produced beyond 90 days after this bill is enacted.

Votes in Committee

Senator Kasten moved to report S. 1816 with an amendment in the nature of a substitute.

On a voice vote, S. 1816, with an amendment in the nature of a substitute and an amendment to the title, was ordered favorably reported.

Changes in Existing Law

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new material is printed in italic, existing law in which no change is proposed is shown in roman):

The Textile Fiber Products Identification Act

Section 4 of that Act

Sec. 4. (a) * * *

(b) Except as otherwise provided in this Act, a textile fiber product shall be misbranded if a stamp, tag, label, or other means of identification, or substitute therefor authorized by section 5, is not on or affixed to the product showing in words and figures plainly legible, the following:

(1)-(4) * * *

(5) If it is a textile fiber product processed or manufactured in the United States, it be so identified.

(c)-(d) * * *

[(e) This section shall not be construed as requiring the affixing of a stamp, tag, label, or other means of identification to each textile fiber product contained in a package if (1) such textile fiber products are intended for sale to the ultimate consumer in such package, (2) such package has affixed to it a stamp, tag, label, or other means of identification bearing, with respect to the textile fiber products contained therein, the information required by subsection (b), and (3) the information on the stamp, tag, label, or other means of identification affixed to such package is equally applicable with respect to each textile fiber product contained therein.]

(e) For purposes of this Act, in addition to the textile fiber products contained therein, a package of textile fiber products intended for sale to the ultimate consumer shall be misbranded unless such package has affixed to it a stamp, tag, label, or other means of identification bearing the information required by subsection (b), with respect to such contained textile fiber products, or is transparent to the extent it allows for the clear reading of the stamp, tag, label, or other means of identification on the textile fiber product, or in the case of hosiery items, this section shall not be construed as requiring the affixing of a stamp, tag, label, or other means of identification to each hosiery product contained in a package if (1) such hosiery products are intended for sale to the ultimate consumer in such package, (2) such package has affixed to it a stamp, tag, label, or other means of identification bearing, with respect to the hosiery products contained therein, the information required by subsection (b), and (3) the information on the

stamp, tag, label, or other means of identification affixed to such package is equally applicable with respect to each textile fiber product contained therein.

(f)-(h) * * *

(i) For the purposes of this Act, a textile fiber product shall be considered to be falsely or deceptively advertised in any mail order catalog or mail order promotional material which is used in the direct sale or direct offering for sale of such textile fiber product, unless such textile fiber product description states in a clear and conspicuous manner that such textile fiber product is processed or manufactured in the United States, or imported, or both.

(j) For purposes of this Act, a textile fiber product shall be misbranded if a stamp, tag, label, or other identification conforming to the requirements of this section is not on or affixed to the inside center of the neck midway between the shoulder seams, or if such product does not contain a neck in the most conspicuous place on the inner side of such product, unless it is on or affixed on the outer side of such product, or in the case of hosiery items on the outer side of such product or package.

THE WOOL PRODUCTS LABELING ACT OF 1939

Section 4 of that Act

SEC. 4. (a) A wool product shall be misbranded—

(1) * * *

(2) If a stamp, tag, label, or other means of identification, or substitute therefor under section 5, is not on or affixed to the wool product and does not show—

(A)-(C) * * *

(D) the name of the country where processed or manufactured.

(b)-(d) * * *

(e) For the purpoes of this Act, a wool product shall be considered to be falsely or deceptively advertised in any mail order promotional material which is used in the direct sale or direct offering for sale of such wool product, unless such wool product description states in a clear and conspicuous manner that such wool product is processed or manufactured in the United States, or imported, or both.

(f) For purposes of this Act, a wool product shall be misbranded if a stamp, tag, label, or other identification conforming to the requirements of this section is not on or affixed to the inside center of the neck midway between the shoulder seams, or if such product does not contain a neck in the most conspicuous place on the inner side of such product, unless it is on or affixed on the outer side of such product or in the case of hosiery items, on the outer side of such product or package.

Section 5 of that Act

SEC. 5. [Any person] (a) *Any person* manufacturing for introduction, or first introducing into commerce a wood product shall affix thereto the stamp, tag, label, or other means of identification required by this Act. [15 USCS §§ 68 et seq.], and the same, or substitutes therefor containing identical information with respect to content of the

wool product or any other products contained therein in an amount of 5 per centum or more by weight and other information required under section 4, [15 USCS § 68b], shall be and remain affixed to such wool product, whether it remains in its original state or is contained in garments or other articles made in whole or in part therefrom, until sold to the consumer: *Provided*, That the name of the manufacturer of the wool product need not appear on the substitute stamp, tag, or label if the name of the person who affixes the substitute appears thereon

[Any person] (*b*) *Any person* who shall cause or participate in the removal or mutilation of any stamp, tag, label, or other means of identification affixed to a wood product with intent to violate the provisions of this Act, is guilty of an unfair method of competition, and an unfair and deceptive act or practice, in commerce within the meaning of the Federal Trade Commission Act.

(*c*) *For the purposes of subsections (a) and (b) of this section, any package of wool products intended for sale to the ultimate consumer shall also be considered a wool product and shall have affixed to it a stamp, tag, label, or other means of identification bearing the information required by section 4, with respect to the wool products contained therein, unless such package of wool products is transparent to the extent that it allows for the clear reading of the stamp, tag, label, or other means of identification affixed to the wool product, or in the case of hosiery items this section shall not be construed as requiring the affixing of a stamp, tag, label, or other means of identification to each hosiery product contained in a package if (1) such hosiery products are intended for sale to the ultimate consumer in such package, (2) such package has affixed to it a stamp, tag, label, or other means of identification bearing, with respect to the hosiery products contained therein, the information required by subsection (4), and (3) the information on the stamp, tag, label, or other means of identification affixed to such package is equally applicable with respect to each hosiery product contained therein.*

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