

114TH CONGRESS  
1ST SESSION

# S. 938

To establish the America Star program within the Department of Labor,  
and for other purposes.

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IN THE SENATE OF THE UNITED STATES

APRIL 14, 2015

Mr. MENENDEZ introduced the following bill; which was read twice and  
referred to the Committee on Health, Education, Labor, and Pensions

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## A BILL

To establish the America Star program within the  
Department of Labor, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “America Star Act”.

5 **SEC. 2. DEFINITIONS.**

6 In this Act:

7 (1) AMERICA STAR COMPANY.—The term  
8 “America Star company” means a participating  
9 company that is designated as an America Star com-  
10 pany under section 3(e).

1           (2) AMERICA STAR PROGRAM.—The term  
2 “America Star program” means the voluntary pro-  
3 gram established under this Act.

4           (3) APPLICANT COMPANY.—The term “appli-  
5 cant company” means a company that applies for  
6 designation as an America Star company.

7           (4) PARTICIPATING COMPANY.—The term “par-  
8 ticipating company” means an applicant company  
9 that—

10                   (A) meets the application requirements set  
11 forth by the Secretary under section 3(b)(1);  
12 and

13                   (B) is not ineligible under section 3(b)(2)  
14 for participation in the America Star program.

15           (5) SECRETARY.—The term “Secretary” means  
16 the Secretary of Labor.

17           (6) VETERAN.—The term “veteran” has the  
18 meaning given the term in section 101 of title 38,  
19 United States Code.

20 **SEC. 3. AMERICA STAR PROGRAM.**

21           (a) ESTABLISHMENT.—The Secretary shall establish,  
22 within the Department of Labor, a voluntary program to  
23 be known as the “America Star program” to annually des-  
24 ignate participating companies as America Star companies

1 based on their support for the workforce of the United  
2 States during the previous calendar year.

3 (b) APPLICATION PROCESS.—

4 (1) IN GENERAL.—The Secretary shall establish  
5 procedures for companies seeking a designation  
6 under this Act to apply for participation in the  
7 America Star program for a calendar year, including  
8 a deadline for companies to apply for such partici-  
9 tion.

10 (2) INELIGIBILITY.—A company shall be ineli-  
11 gible to participate in the America Star program  
12 if—

13 (A) the Secretary has determined that  
14 such company has committed a serious, re-  
15 peated, or willful violation, as described in para-  
16 graph (3), of a provision under—

17 (i) the Occupational Safety and  
18 Health Act of 1970 (29 U.S.C. 651 et  
19 seq.);

20 (ii) the National Labor Relations Act  
21 (29 U.S.C. 151 et seq.);

22 (iii) the Fair Labor Standards Act of  
23 1938 (29 U.S.C. 201 et seq.);

24 (iv) the Family and Medical Leave  
25 Act of 1993 (29 U.S.C. 2601 et seq.);

1 (v) the Americans with Disabilities  
2 Act of 1990 (42 U.S.C. 12101 et seq.);

3 (vi) the Age Discrimination in Em-  
4 ployment Act of 1967 (29 U.S.C. 621 et  
5 seq.); or

6 (vii) title VII of the Civil Rights Act  
7 of 1964 (42 U.S.C. 2000e et seq.); or

8 (B) there is evidence that such company  
9 has substantially outsourced, as defined by the  
10 Secretary, jobs in the United States to another  
11 country during the previous 5 calendar years.

12 (3) SERIOUS, REPEATED, OR WILLFUL VIOLA-  
13 TION.—

14 (A) SERIOUS.—For the purpose of deter-  
15 mining whether a violation is serious under  
16 paragraph (2)(A), the Secretary shall, with re-  
17 spect to each of the previous 3 calendar years,  
18 consider—

19 (i) the number of employees of such  
20 company affected by the violation;

21 (ii) the degree of risk posed or actual  
22 harm caused by the violation to the health,  
23 safety, or well-being of an employee of  
24 such company;

1 (iii) the amount of damages incurred  
2 or fines or penalties assessed on account of  
3 the violation; and

4 (iv) any other consideration the Sec-  
5 retary determines appropriate.

6 (B) REPEATED.—For the purpose of de-  
7 termining whether a violation is repeated under  
8 paragraph (2)(A), the Secretary shall consider  
9 whether such company has had 1 or more addi-  
10 tional violations of the same, or a substantially  
11 similar, requirement during any of the previous  
12 3 calendar years.

13 (C) WILLFUL.—For the purpose of deter-  
14 mining whether a violation is willful under  
15 paragraph (2)(A), the Secretary shall consider  
16 whether such company knew of, showed reckless  
17 disregard for, or acted with plain indifference  
18 as to whether the conduct of such company was  
19 prohibited by any of the laws listed in para-  
20 graph (2)(A) during any of the previous 3 cal-  
21 endar years.

22 (c) CLASSIFICATION GROUPS.—The Secretary shall  
23 place each applicant company that meets the requirements  
24 under subsection (b) into a classification group based on  
25 size and industry.

1 (d) SCORING SYSTEM.—

2 (1) IN GENERAL.—The Secretary, in consulta-  
3 tion with any other relevant Federal agency as de-  
4 termined by the Secretary, shall develop a system to  
5 score participating companies based on their per-  
6 formance, during the previous calendar year, in the  
7 categories described in paragraph (2), compared to  
8 other participating companies within the classifica-  
9 tion group of such company as determined under  
10 subsection (c).

11 (2) CATEGORIES.—

12 (A) IN GENERAL.—The score that a par-  
13 ticipating company receives for such company's  
14 performance during the previous calendar year  
15 shall be based on the following categories:

16 (i) WAGES.—The ratio of the total an-  
17 nual compensation, including benefits, of  
18 the employee receiving the greatest com-  
19 pensation at such participating company  
20 compared to the median total annual com-  
21 pensation, including benefits, of all employ-  
22 ees at such company, with a higher score  
23 for participating companies with a lower  
24 such ratio.

1 (ii) MADE IN USA.—The percentage of  
2 the products manufactured or sold by such  
3 participating company that meet the  
4 standards of the Federal Trade Commis-  
5 sion for labeling as “Made in USA”, with  
6 a higher score for participating companies  
7 with a higher such percentage.

8 (iii) VETERANS.—The use of veterans  
9 employment initiatives to promote employ-  
10 ment opportunities at such participating  
11 company for veterans, with a higher score  
12 for participating companies utilizing more  
13 robust initiatives as determined by the Sec-  
14 retary. Such initiatives may include—

15 (I) veterans recruitment and hir-  
16 ing programs;

17 (II) job training and counseling  
18 programs for veterans;

19 (III) internal education pro-  
20 grams, for human resources or hiring  
21 staff, on the skills veterans attain  
22 from serving as veterans and the posi-  
23 tive roles veterans can play at such  
24 participating company; and

1 (IV) mentorship programs involv-  
2 ing veterans working at such partici-  
3 pating company and unemployed vet-  
4 erans.

5 (iv) ADDITIONAL CATEGORIES.—For  
6 any classification group determined appro-  
7 priate by the Secretary, the Secretary may  
8 add any additional category that such Sec-  
9 retary determines to be representative of  
10 overall positive treatment of workers in the  
11 United States, including—

12 (I) the implementation and use  
13 of initiatives or practices to promote  
14 diversity and employment of women;

15 (II) the demonstration of pay  
16 parity for men and women of equiva-  
17 lent levels of employment performing  
18 equivalent work; and

19 (III) the implementation of work-  
20 er support programs, including—

21 (aa) retirement plans;

22 (bb) paid family and medical  
23 leave insurance;

24 (cc) development programs,  
25 such as job training courses or



1 assistance with attaining a higher  
2 education degree; and

3 (dd) work schedule flexi-  
4 bility.

5 (B) PRIORITY OF CATEGORIES.—In scor-  
6 ing each participating company, the Secretary  
7 shall weigh the categories described in subpara-  
8 graph (A) by offering the greatest number of  
9 points for performance under clauses (i), (ii),  
10 and (iii) of such subparagraph, with perform-  
11 ance under each such clause receiving an equal  
12 weight, and the least number of points for per-  
13 formance under clause (iv) of such subpara-  
14 graph.

15 (e) AMERICA STAR DESIGNATION.—

16 (1) IN GENERAL.—Upon scoring each partici-  
17 pating company, the Secretary shall, if appropriate,  
18 designate participating companies, within each clas-  
19 sification group receiving the highest, or relatively  
20 high, scores or otherwise demonstrating exceptional  
21 support for workers in the United States based on  
22 performance in the categories under subsection  
23 (d)(2).

24 (2) NUMBER OF DESIGNATIONS.—For each cal-  
25 endar year, the Secretary shall determine the num-

1 ber of participating companies to designate as Amer-  
2 ica Star companies within each classification group  
3 determined under subsection (c).

4 (3) DEADLINE.—On Labor Day of each cal-  
5 endar year, the Secretary shall announce the compa-  
6 nies to be designated as America Star companies.

7 (f) MARKETING; ADVERTISING.—

8 (1) PROGRAM.—The Secretary shall annually  
9 market the America Star program through a  
10 webpage, on the website of the Department of  
11 Labor, that includes—

12 (A) general information describing the  
13 America Star program;

14 (B) the relevant information for applying  
15 to such program, including the application proc-  
16 ess, the ineligibility criteria, any deadlines  
17 under subsection (b), and how to submit such  
18 application; and

19 (C) a list of companies designated under  
20 subsection (e) as America Star companies for  
21 each previous calendar year.

22 (2) AWARDS.—

23 (A) IN GENERAL.—The Secretary shall de-  
24 sign a label for designation as an America Star  
25 company.

1 (B) PERMISSIBLE USES.—An America  
2 Star company may, subject to subparagraph  
3 (C)(i), use a label designed under subparagraph  
4 (A) for advertising purposes by displaying such  
5 label next to the logo for such company.

6 (C) IMPERMISSIBLE USES.—

7 (i) RECIPIENT COMPANIES.—An  
8 America Star company may not use a label  
9 designed under subparagraph (A) to adver-  
10 tise a specific product.

11 (ii) NONRECIPIENT COMPANIES.—A  
12 company that is not designated as an  
13 America Star company under subsection  
14 (e) may not use a label designed under  
15 subparagraph (A) for any purpose.

16 (3) ENFORCEMENT BY FEDERAL TRADE COM-  
17 MISSION.—

18 (A) UNFAIR OR DECEPTIVE ACT OR PRAC-  
19 TICE.—A violation of paragraph (2)(C)(ii) shall  
20 be treated as a violation of a rule defining an  
21 unfair or deceptive act or practice described  
22 under section 18(a)(1)(B) of the Federal Trade  
23 Commission Act (15 U.S.C. 57a(a)(1)(B)).

24 (B) POWERS OF COMMISSION.—

1 (i) IN GENERAL.—The Federal Trade  
2 Commission shall enforce this subsection in  
3 the same manner, by the same means, and  
4 with the same jurisdiction, powers, and du-  
5 ties as though all applicable terms and pro-  
6 visions of the Federal Trade Commission  
7 Act (15 U.S.C. 41 et seq.) were incor-  
8 porated into and made a part of this sub-  
9 section.

10 (ii) PRIVILEGES AND IMMUNITIES.—  
11 Any person who violates this subsection  
12 shall be subject to the penalties and enti-  
13 tled to the privileges and immunities pro-  
14 vided in the Federal Trade Commission  
15 Act (15 U.S.C. 41 et seq.).

16 (iii) RULEMAKING.—The Federal  
17 Trade Commission may promulgate stand-  
18 ards and rules to carry out this subsection  
19 in accordance with section 553 of title 5,  
20 United States Code.

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