

Fair Labor Association: Independent External Factory Assessment

Assessment Date :

20 Jun 2024



Factory Information

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| FLA Affiliates | Burton Snowboards,Fenix Outdoor AB,Hanesbrands,KMD Brands |
| Country | Vietnam |
| Number of Workers | 1249 |

Understanding this Report

Companies that join the FLA agree to uphold the FLA Workplace Code of Conduct throughout their entire supply chain. The Code of Conduct is based on International Labour Organization (ILO) standards, and defines labor standards that aim to achieve decent and humane working conditions.

FLA Code Element

Number of Violations

| FLA Code Element | Number of Violations |
|--------------------------------------|----------------------|
| Compensation (C) | 4 |
| Employment Relationship (ER) | 8 |
| Health, Safety And Environment (HSE) | 6 |
| Hours Of Work (HOW) | 4 |
| Nondiscrimination (ND) | 1 |

Assessment Information

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| Assessor | OneStep Viet Co., Limited |
| Assessment Date | 20 Jun 2024 |

Assessment Purpose

Factory Assessment (In-Person)

ASSESSMENT RESULTS

Compensation (C)

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| Benchmark ID | C.9.3 |
| Benchmark Details | Employees shall be compensated for overtime hours at such premium rate as is legally required in the producing country |
| Finding Details | <p>1) Workers work before official working time. However, this period is not recorded and paid for workers: a) As per CCTV records and worker's interviewed (approximately 40%) show that around five to seven minutes before official working time (7:30 am) are used for morning meetings, which happens from three to six days per week in all workshops without attendance record and compensation as this time is defined as working hours as legally required. This practice is also confirmed by the supervisor/management level; b) Workers work before the official working hour as per CCTV records. For example, some workers worked at 07:20 am on May 21, 2024; at 07:05 am on May 22, 2024; at 07:22 am on May 23, 2023 and at 07:19 on May 27, 2023, but the official working hour started at 07:30 am; 2) There were 31 workers working from 18:00 on April 17, 2024 to 03:00 on April 18, 2024. April 18, 2024 was the national public holiday. However, these workers were paid 130% instead of 390% for three hours from 0:00 to 3:00 on April 18, 2024 (working in nighttime of holiday) as legally required.</p> |
| Recommendation for Immediate Action | <p>1) Overtime premium rate shall be calculated and paid sufficiently; 2) Ensure that all working time is recorded and full wages are paid to employees according to the legal requirements.</p> |
| Compliance Classifications | Immediate Action Required |
| Local Law | Decree No. 145/2020/ND-CP, Article 54, 55 and 58; Law No. 45/2019/QH14, Article 98 and 112 |
| Benchmark ID | C.1.1 |

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| Benchmark Details | Employers shall comply with all national laws, regulations and procedures concerning the payment of compensation to workers. |
| Finding Details | The factory does not provide the in-kind benefit for all workers in following four sections: sewing, ironing, button attaching and heat pressing. They work in the area considered as dangerous and hazardous conditions, and had a historical issue of temperature and humidity exceeding the legal standard in April 2023 |
| Recommendation for Immediate Action | Employees shall provide in-kind benefit as legally required, which should be worth VND 20,000 (based on Level 2) for workers working in dangerous and hazardous conditions. |
| Compliance Classifications | Immediate Action Required |
| Local Law | Circular No. 24/2022/TT-BLDTBXH, Article 3 |
| Benchmark ID | C.17 |
| Benchmark Details | Employers shall ensure that all legally required payroll documents, journals and reports are available, complete, accurate and up-to date. |
| Finding Details | The factory uses onsite contractors for security services (eight employees) and canteen services (nine employees). The factory only keeps the list of the employees from contractors who work onsite at the facility with the copies of their ID cards for age verification. However, there are no payroll records and social insurance records available for review during the assessment as per FLA requirement. Thus, the information regarding wage, benefit and working hours of these contracted workers cannot be verified. |
| Recommendation for Immediate Action | Monitor and keep payroll and benefit records of all onsite workers. |
| Compliance Classifications | Immediate Action Required |
| Local Law | N/A |
| Benchmark ID | C.3.1 |

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| Benchmark Details | Where probationary or training employment is legally allowed, the wage shall not be below the legal minimum and no workers shall work more than three months cumulatively in those employment categories. |
| Finding Details | There are 13 unskilled workers who had from one to seven days of skill training before the training contracts were signed. These workers are paid VND 50,000/day instead of minimum wage (VND 140,000/day) during the skill training period as required by FLA. |
| Recommendation for Immediate Action | Ensure regional minimum wage as required by law is paid to workers. |
| Compliance Classifications | Immediate Action Required |
| Local Law | N/A |

Employment Relationship (ER)

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| Benchmark ID | ER.5.1 |
| Benchmark Details | Employers shall ensure that all supervisors are trained in national laws, workplace regulations, and the FLA Code, workplace grievance systems, and the appropriate practices to ensure compliance. |
| Finding Details | As required by FLA's benchmarks, employers shall ensure that all employees and supervisors are trained in national laws, workplace regulations, and the FLA Code, workplace grievance systems, and the appropriate practices to ensure compliance. Based on training records and confirmation from the factory management, it is noted that 11 experts have not been training in the FLA Codes. |
| Recommendation for Immediate Action | |
| Compliance Classifications | Sustainable Improvement Required |
| Local Law | N/A |

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| Benchmark ID | ER.1.1 |
| Benchmark Details | Employers shall have in place written policies and practices and maintain proper and accurate records governing all aspects of employment from recruitment, hiring and probation, including written terms and conditions of employment, job descriptions, administration of compensation, and working hours for all positions, through to retrenchment and termination processes. |
| Finding Details | The factory does not have any policies and procedures regarding retrenchment. |
| Recommendation for Immediate Action | |
| Compliance Classifications | Sustainable Improvement Required |
| Local Law | N/A |
| Benchmark ID | ER.18.1 |
| Benchmark Details | Employers shall have written disciplinary rules, procedures and practices that embody a system of progressive discipline (e.g. a system of maintaining discipline through the application of escalating disciplinary action moving from verbal warnings to written warnings to suspension and finally to termination). |
| Finding Details | The internal regulation was approved on October 28, 2021 and states that: a) Point 21.1: If an employee loses the badge or it is damaged, he/she must go to the HR department to get a new badge and pay VND 20,000.; b) Point 21.3: An employee must return the employee badge to the HR department when he/she resigns. If it is not returned, he/she will have to pay VND 20,000; c) Point 35.3: If an employee fails to return the items issued by the Company, the lost item(s) must be compensate based on the actual value of those items, which will be directly deducted from the severance pay: VND 20,000 for timekeeping card, VND 20,000 for employee handbook and VND 68,000 per year for uniforms; These regulations do not comply with local law and FLA Benchmark. Remark: During the assessment, there was no deduction case found. |

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| Recommendation for Immediate Action | Review internal regulations on compensation in accordance with the law. |
| Compliance Classifications | Immediate Action Required |
| Local Law | Article 102, Labor Code No. 45/2019/QH14 |
| Benchmark ID | ER.6.1 |
| Benchmark Details | Employers shall have written policies and procedures and implement practices that encourage ongoing training of all categories of workers with the goal of raising or broadening skills in order to advance in their careers within the factory or beyond. |
| Finding Details | The factory conducts the ongoing training of all workers with the goal of improving or broadening skills for future career advancement. However, the factory does not have any policies and procedures for implementing these practices. |
| Recommendation for Immediate Action | |
| Compliance Classifications | Sustainable Improvement Required |
| Local Law | Law No. 45/2019/QH14, Article 60 |
| Benchmark ID | ER.7.1 |
| Benchmark Details | Employers shall have written policies and procedures with regard to performance reviews that outline the review steps and process, demonstrate linkages to job grading, prohibit discrimination, are provided in writing and seek feedback and agreement/disagreement from employees in writing, and that follow all local legal requirements. |
| Finding Details | The factory conducts performance reviews monthly. However, the factory does not have any policies and procedures to guide the implementation of performance review that includes steps and processes, linkages to job grading, non-discrimination and written feedback. |

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| Recommendation for Immediate Action | |
| Compliance Classifications | Sustainable Improvement Required |
| Local Law | N/A |
| Benchmark ID | ER.8 |
| Benchmark Details | Employers shall have written policies and procedures with regard to promotion, demotion, and job reassignment that outline the criteria, demonstrate linkages to job grading, and prohibit discrimination or use of demotion or job reassignment as a form of penalty or punishment, are provided in writing and seek feedback from employees in writing, and follow all local legal requirements. |
| Finding Details | The factory does not have any policies and procedures on promotion and demotion. |
| Recommendation for Immediate Action | |
| Compliance Classifications | Sustainable Improvement Required |
| Local Law | N/A |
| Benchmark ID | ER.19.1 |
| Benchmark Details | Employers shall maintain on file all documentation needed to demonstrate compliance with the FLA Workplace Code and required laws. |

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| Finding Details | Some employment terms and conditions do not align with the legal requirements: 1) At least 13 workers were on probation for 31 - 32 days instead of 30 days as legally required. Remark: These workers were paid sufficiently because the factory applied the new salary for official workers for the entire month that the labor contract was signed, regardless of which day of the month it was; 2) The factory uses onsite contractors for security services (8 employees) and canteen services (9 employees). The factory only keeps the list of the employees from contractors who work onsite at the facility with the copies of their ID cards for age verification. There are no labor contracts, payroll records, attendance records, social insurance records which are available for reference during the assessment as per standard requirement. Thus, the information regarding employment practice, wage, benefit and working hours cannot be verified. |
| Recommendation for Immediate Action | 1) Adjust the probationary period to be in accordance with the law; 2) Monitor and keep labor contract of all onsite workers. |
| Compliance Classifications | Immediate Action Required |
| Local Law | Labor Code No. 45/2019/QH14, Article 25. |
| Benchmark ID | ER.10.2 |
| Benchmark Details | Employers shall not renew contracts for multiple successive short-terms in lieu of providing regular employment. |
| Finding Details | The factory signs labor contract with six seasonal workers for long-term position (thread cutting) from March 27 to April 11, 2023 (2 workers signed contracts from March 29 to April 9, 2024 and 4 workers signed contracts from March 27 to April 11, 2024). |
| Recommendation for Immediate Action | Avoid using temporary workers on a long-term basis, or for multiple short terms |
| Compliance Classifications | Immediate Action Required |
| Local Law | Article 8, Labor Code No. 45/2019/QH14 |

Health, Safety And Environment (HSE)

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| Benchmark ID | HSE.5.1.2 |
| Benchmark Details | All applicable, legally required or recommended elements of safe evacuation shall be complied with, including all the following elements: installation and maintenance of fire alarms; |
| Finding Details | 1) The fire alarm systems of workshop 1 and dormitory were approved by fire police on June 18, 2014. This system includes fire detectors, manual call points, and fire alarms connected to the fire alarm control panel in the security room. However, the factory later renovated the fire alarm system by themselves by separating the fire alarm system in two independent systems: a) an automatic fire alarm system including fire detectors, fire alarms and control panel, and b) a fire alarm system with manual call points and other fire alarms. During testing, the system No. 2 operates separately from the main fire alarm control panel in the security room. This change has led to a lack of continuous supervision for these fire alarms. Besides, there is no backup power for the fire alarm system No. 2 in these buildings; 2) There is no grounding wire for the center fire alarm control panels at the main security gate. |
| Recommendation for Immediate Action | 1) Ensure fire alarm system is functional; 2) Install a grounding wire in the center fire alarm control panels at the main security gate. |
| Compliance Classifications | Immediate Action Required |
| Local Law | National Standard TCVN 5738:2021, Article 4, 5, 9 and 10. |
| Benchmark ID | HSE.5.1.4 |
| Benchmark Details | All applicable, legally required or recommended elements of safe evacuation shall be complied with, including all the following: ensuring aisles/exits are not blocked and that workers are not blocked within their workstations |
| Finding Details | Two out of four exit aisles are obstructed by materials in the "Gòn" warehouse (Workshop 1). |

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| Recommendation for Immediate Action | Ensure that all exit aisles are clear at all time. |
| Compliance Classifications | Immediate Action Required |
| Local Law | National technical regulation QCVN 06/2022/TT-BXD, Article 3. |
| Benchmark ID | HSE.9.1 |
| Benchmark Details | All chemicals and hazardous substances shall be properly labeled and stored in secure and ventilated areas and disposed of in a safe and legal manner, in accordance with applicable laws and international standards. |
| Finding Details | 1) There is no secondary containment and Material Safety Data Sheet for more than seven cans of chemicals (3YE) and ten cans of machine oil in the maintenance warehouse; 2) The hazardous waste (around fifteen cans of used chemicals) is placed outside instead of a designated hazardous waste storage area. |
| Recommendation for Immediate Action | 1) Chemical containers shall be stored in proper secondary containment; 2) Hazardous waste shall be classified and stored in a designated hazardous waste storage area with limited access. |
| Compliance Classifications | Immediate Action Required |
| Local Law | National technical regulation QCVN 05A:2020/BCT, Article 5, Clause 5.15 and Law No. 72/2020/QH14, Article 83 |
| Benchmark ID | HSE.19 |
| Benchmark Details | All facilities including workplace buildings, toilets, canteens, kitchens, and clinics, shall be kept clean and safe and be in compliance with all applicable laws, including relevant sanitation, medical, and safety and health regulations. |

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| Finding Details | 1) There are no lids for trash cans and drying facility at the toilets; 2) The food samples are not kept for at least 72 hours and not more than 4°C as per The Code of Hygienic Practice for Precooked and Cooked Foods in Mass Catering. They are kept within 24 hours (and 48 hours for Saturday). Remark: This practice complies with local legal requirements. |
| Recommendation for Immediate Action | 1) Provide hand dryer and lids for trash cans in all toilets; 2) The food samples should be kept for at least 72 hours and at 4°C or lower as applicable standard |
| Compliance Classifications | Immediate Action Required |
| Local Law | N/A |
| Benchmark ID | HSE.1 |
| Benchmark Details | Employers shall comply with all national laws, regulations and procedures concerning health, safety, and the environment. |
| Finding Details | 1) The factory conducted the risk assessment on June 8, 2023. However, the risk assessment of the electromagnetic field is not conducted at the packing area where the metal detector is used. Therefore, working environment monitoring of electromagnetic activity in this area has not been carried out; 2) This is a historical issue. According to the occupational condition test in April 2023, exceeded the legal limit at four sections: automatic sewing section, ironing section, button attaching section and heat pressing section. These parameters complied with legal requirements in the new occupational condition test in August 2023. There were approximately 70 workers working in affected areas, however, they were not provided the occupational disease check until September 2023. No workers had any occupational diseases. |
| Recommendation for Immediate Action | 1) Ensure the risk assessment cover all risk and appropriate ways to eliminate and/or control hazards; 2) Provide regularly health check for all workers as legally required. |
| Compliance Classifications | Immediate Action Required |

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| Local Law | Law No. 84/2015/QH13, Article 21, 77 and Circular No. 07/2016/TT-BLDTBXH, Article 3 - 8 |
| Benchmark ID | HSE.17.1 |
| Benchmark Details | Workstations, including seating and standing arrangements and reach required to obtain tools, shall be designed and set-up in such a manner as to minimize bodily strains. |
| Finding Details | The factory does not provide chairs with backrest for workers with prolonged sitting jobs (e.g. sewing and pressing section) and standing mats for three workers with prolonged standing jobs at the laser area. |
| Recommendation for Immediate Action | Provide chairs with backrest for workers performing prolonged sitting jobs and standing mats for workers performing prolonged sitting jobs. |
| Compliance Classifications | Immediate Action Required |
| Local Law | N/A |

Hours Of Work (HOW)

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| Benchmark ID | HOW.1.1 |
| Benchmark Details | Employers shall comply with all national laws, regulations and procedures concerning hours of work, public holidays and leave. |
| Finding Details | a) There is approximately 55% total of the workforce worked more than 40 overtime hours per month from June 2023 to May 2024, which exceed the legal monthly overtime requirement. The maximum overtime hours worked are 66 hours per month; b) There is approximately 41.5% total of the workforce worked more than 300 overtime hours/year, which exceed the legal yearly overtime limit. The maximum number of overtime hours are 499.5 hours in 2023. |
| Recommendation for Immediate Action | Control the overtime hours as legally required. |

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| Compliance Classifications | Immediate Action Required |
| Local Law | Law No. 45/2019/QH14, Article 107 |
| Benchmark ID | HOW.21 |
| Benchmark Details | Other than in exceptional circumstances, the total weekly work hours (regular work hours plus overtime including any alternative shifts such as 4x4 or 3x3) shall not exceed 60 hours per week. |
| Finding Details | There is approximately 58% total of the workforce work more than 60 hours per week (including regular and overtime hours), which exceed the weekly hours of the FLA Benchmark. The excessive weekly hours happened from June 2023 to May 2024, from one to three weeks per month. |
| Recommendation for Immediate Action | Ensure workers not to work more than 60 hours per week. |
| Compliance Classifications | Immediate Action Required |
| Local Law | N/A |
| Benchmark ID | HOW.22.3 |
| Benchmark Details | Time worked by all workers, regardless of wage system, shall be fully documented by time cards or other mechanical or electronic recording systems. |

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| Finding Details | <p>1) There are 13 unskilled workers who had from one to seven days of skill training before the training contracts were signed. However, there is no attendance record showing the exact working hours of these workers; 2) There were six seasonal workers working from March 27 to April 11, 2023 (two workers signed contracts from March 29 to April 9, 2024 and four workers signed contracts from March 27 to April 11, 2024). It was noted that the attendance of these workers was recorded manually by the leader instead of by themselves. 3) The factory uses onsite contractors for security services (eight employees) and canteen services (nine employees). The factory only keeps the list of the employees from contractors who work onsite at the facility with the copies of their ID cards as age verification. However, there are no attendance records available for review during the assessment as per standard requirement. Thus, the information regarding wage, benefit and working hours cannot be verified.</p> |
| Recommendation for Immediate Action | <p>1) Install a system to record attendance data of onsite worker accurately; 2) Monitor and keep employment document of all onsite workers.</p> |
| Compliance Classifications | <p>Immediate Action Required</p> |
| Local Law | <p>N/A</p> |
| Benchmark ID | <p>HOW.2</p> |
| Benchmark Details | <p>Workers shall be entitled to at least 24 consecutive hours of rest in every seven- day period. If workers must work on a rest day, an alternative consecutive 24 hours must be provided within that same seven-day period or immediately following.</p> |
| Finding Details | <p>There is approximately 58% total of the workforce work on one rest day from February 2024 to May 2024 with a maximum of 8 to 13 consecutive working days. Remark: Form May 2024, workers are entitled one compensation day off after working on a rest day.</p> |
| Recommendation for Immediate Action | <p>Ensure that workers receive 24 consecutive hours of rest every seven days.</p> |

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| Compliance Classifications | Immediate Action Required |
| Local Law | Law No. 45/2019/QH14, Article 111 |
| Nondiscrimination (ND) | |
| Benchmark ID | ND.3 |
| Benchmark Details | Recruitment and employment policies and practices, including job advertisements, job descriptions, application and interview questions and job performance/evaluation policies and practices shall be free from any type of discriminatory bias. |
| Finding Details | The factory has a recruitment post on the social media stating the age requirement as 18 years old or above instead of 15 years old, the legal working age or above. This post was posted on 21 March 2024 and was still available at the time of the assessment. |
| Recommendation for Immediate Action | Revise labor recruitment regulations in accordance with legal regulations. |
| Compliance Classifications | Immediate Action Required |
| Local Law | Article 8, Labor Code No. 45/2019/QH14. |

