

103<sup>D</sup> CONGRESS  
1<sup>ST</sup> SESSION

# S. 86

To amend the Fair Labor Standards Act of 1938 to improve enforcement of the child labor provisions of such Act, and for other purposes.

---

## IN THE SENATE OF THE UNITED STATES

JANUARY 21 (legislative day, JANUARY 5), 1993

Mr. METZENBAUM (for himself, Mr. KENNEDY, and Mr. DODD) introduced the following bill; which was read twice and referred to the Committee on Labor and Human Resources

---

## A BILL

To amend the Fair Labor Standards Act of 1938 to improve enforcement of the child labor provisions of such Act, 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 “Child Labor Amend-  
5 ments of 1993”.

1                   **TITLE I—CHILD LABOR**  
2                   **PROVISIONS**

3   **SEC. 101. NO PRIOR OFFENSE PREREQUISITE FOR CHILD**  
4                   **LABOR VIOLATION.**

5           The second sentence of section 16(a) of the Fair  
6 Labor Standards Act of 1938 (29 U.S.C. 216(a)) is  
7 amended by inserting before the period at the end the fol-  
8 lowing: “, except that this sentence shall not apply to a  
9 violation of section 12”.

10 **SEC. 102. CIVIL PENALTIES FOR CHILD LABOR VIOLATIONS.**

11           Section 16(e) of the Fair Labor Standards Act of  
12 1938 (29 U.S.C. 216(e)) is amended—

13                   (1) by redesignating paragraphs (1), (2), and  
14                   (3) as subparagraphs (A), (B), and (C), respectively;

15                   (2) by inserting “(1)” after the subsection des-  
16                   ignation;

17                   (3) by adding at the end the following new  
18                   paragraphs:

19           “(2) Any person who willfully violates the provisions  
20 of section 12, relating to child labor, or any regulation  
21 issued under such section, on more than one occasion,  
22 shall, on such additional violation, be ineligible—

23                   “(A) for any grant, contract, or loan provided  
24                   by an agency of the United States or by appro-

1        priated funds of the United States, for 3 years after  
2        the date of such additional violation; or

3            “(B) to pay the training wage authorized by  
4        section 6 of Fair Labor Standards Amendments of  
5        1989 (29 U.S.C. 206 note),

6 unless the Secretary otherwise recommends, because of  
7 unusual circumstances.

8            “(3) The Secretary shall make available to affected  
9 school districts for posting and distribution the name of  
10 each employer who violates the provisions of section 12,  
11 relating to child labor, or any regulation issued under such  
12 section, together with a description of the location and na-  
13 ture of the violation.”.

14 **SEC. 103. CERTIFICATES OF EMPLOYMENT.**

15        Section 12 of the Fair Labor Standards Act of 1938  
16 (29 U.S.C. 212) is amended by adding at the end the fol-  
17 lowing new subsection:

18            “(e)(1) As used in this subsection:

19            “(A) The term ‘minor’ means an individual who  
20        is under the age of 18 and who has not received a  
21        high school diploma or its equivalent.

22            “(B) The term ‘parent’ means a biological par-  
23        ent of a minor or other individual standing in place  
24        of the parent to a minor.

1       “(2) No employer shall employ a minor unless the  
2 minor possesses a valid certificate of employment issued  
3 in accordance with this subsection.

4       “(3) The Governor of a State shall designate a State  
5 agency to issue certificates of employment to minors in  
6 the State. The agency shall make available, on request,  
7 a form for the application described in paragraph (4) and  
8 shall make available, as part of the certification process,  
9 materials describing applicable Federal requirements gov-  
10 erning the employment of minors.

11       “(4) To be eligible to receive a certificate of employ-  
12 ment, a minor must submit to the appropriate State agen-  
13 cy an application that contains—

14               “(A) the name and address of the minor;

15               “(B) the name and address of the employer;

16               “(C) proof of age of the minor; and

17               “(D) if the minor is under the age of 16—

18                       “(i) a written statement by a parent of the  
19 minor that the parent grants consent for em-  
20 ployment of the minor; and

21                       “(ii) written verification from the minor’s  
22 school that the minor is meeting any applicable  
23 minimum school attendance requirements estab-  
24 lished under State law.

1       “(5) On receipt of an application under paragraph  
2 (4), a State agency shall issue to the minor—

3           “(A) a certificate of employment, if the require-  
4 ments of paragraph (4) are met; or

5           “(B) a statement of the denial of a certificate  
6 of employment (including the reasons for the denial),  
7 if the requirements of paragraph (4) are not met.

8       “(6) A certificate of employment issued to a minor  
9 under this subsection shall be valid during the period in  
10 which the minor is employed by the employer listed on the  
11 certificate.

12       “(7) A certificate of employment issued to a minor  
13 under this subsection shall indicate—

14           “(A) the name, address, and date of birth of  
15 the minor;

16           “(B) the name and address of the employer;

17           “(C) restrictions on the times of day and maxi-  
18 mum number of hours the minor may be employed  
19 and on the employment of the minor in hazardous  
20 occupations; and

21           “(D) the name, address, and telephone number  
22 of the State agency that may be contacted for addi-  
23 tional information concerning applicable Federal re-  
24 quirements governing the employment of minors.



1 “(g) The Secretary shall prepare and distribute to  
 2 State employment agencies written materials (suitable for  
 3 posting and mass distribution) that describe the provisions  
 4 of Federal law and regulations governing the employment  
 5 of minors.”.

6 **SEC. 105. HAZARDOUS CHILD LABOR OCCUPATIONS.**

7 Section 3(l) of the Fair Labor Standards Act of 1938  
 8 (29 U.S.C. 203(l)) is amended by adding at the end the  
 9 following new sentence: “The Secretary shall find and by  
 10 order declare that poultry processing, fish and seafood  
 11 processing, and pesticide handling (among other occupa-  
 12 tions declared by the Secretary) are occupations that are  
 13 particularly hazardous for the employment of children be-  
 14 tween the ages of 16 and 18 for purposes of this sub-  
 15 section.”.

16 **SEC. 106. PROTECTION OF MINORS WHO ARE MIGRANT OR**  
 17 **SEASONAL AGRICULTURAL WORKERS.**

18 (a) DEFINITION OF OPPRESSIVE CHILD LABOR.—  
 19 The first sentence of section 3(l) of the Fair Labor Stand-  
 20 ards Act of 1938 (29 U.S.C. 203(l)) is amended—

- 21 (1) by striking “or” before “(2)”; and  
 22 (2) by inserting before the semicolon the follow-  
 23 ing: “, or (3) any employee under the age of 14  
 24 years is employed in agriculture, except where such  
 25 employee is employed by a parent of the employee,

1 or by a person standing in the place of a parent of  
2 the employee, on a farm owned or operated by such  
3 parent or person”.

4 (b) EXEMPTIONS.—Section 13(c) of such Act (29  
5 U.S.C. 213(c)) is amended—

6 (1) in paragraph (1)—

7 (A) by striking “(2) or (4)” and inserting  
8 “(2)”; and

9 (B) by striking “employed, if such em-  
10 ployee—” and all that follows through the end  
11 and inserting “employed, if such employee is 14  
12 years of age or older.”; and

13 (2) by striking paragraph (4).

14 **SEC. 107. REPORTS.**

15 Not later than 1, 2, and 3 years after the date of  
16 enactment of this Act, the Secretary of Labor shall provide  
17 to the Committee on Education and Labor of the House  
18 of Representatives and the Committee on Labor and  
19 Human Resources of the Senate a report on actions taken  
20 to carry out, and the effect of, this title and the amend-  
21 ments made by this title, including national and State-  
22 by-State information on—

23 (1) certificates of employment issued to minors  
24 under section 12(e) of the Fair Labor Standards Act  
25 of 1938 (as added by section 103 of this Act); and



1           (2) deaths and injuries of minors occurring in  
2           the course of employment that are reported under  
3           section 12(f) of the Fair Labor Standards Act of  
4           1938 (as added by section 104 of this Act).

5           **TITLE II—MISCELLANEOUS**

6           **SEC. 201. REGULATIONS.**

7           The Secretary of Labor shall issue such regulations  
8           as are necessary to carry out this Act and the amendments  
9           made by this Act.

10          **SEC. 202. EFFECTIVE DATE.**

11          This Act shall become effective 180 days after the  
12          date of enactment of this Act.

○