

106TH CONGRESS
2D SESSION

S. 3100

To amend the Fair Labor Standards Act of 1938 to reform the provisions relating to child labor.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 25 (legislative day, SEPTEMBER 22), 2000

Mr. HARKIN (for himself, Mr. ROCKEFELLER, Mr. WELLSTONE, and Mr. KERRY) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To amend the Fair Labor Standards Act of 1938 to reform the provisions relating to child labor.

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; REFERENCE.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Children’s Act for Responsible Employment” or “**CARE**
6 **Act**”.

7 (b) **REFERENCE.**—Whenever in this Act an amend-
8 ment or repeal is expressed in terms of an amendment
9 to, or repeal of, a section or other provision, the reference
10 shall be considered to be made to a section or other provi-

1 sion of the Fair Labor Standards Act of 1938 (29 U.S.C.
2 201 et seq.).

3 **SEC. 2. AGRICULTURAL EMPLOYMENT.**

4 Section 13(c) (29 U.S.C. 213(c)) is amended—

5 (1) by striking paragraph (1) and inserting the
6 following:

7 “(1) The provisions of section 12 relating to child
8 labor shall not apply to any employee employed in agri-
9 culture outside of school hours for the school district
10 where such employee is living while he or she is so em-
11 ployed, if such employee is employed by his or her parent
12 or legal guardian, on a farm owned or operated by such
13 parent or legal guardian.”; and

14 (2) by striking paragraphs (2) and (4).

15 **SEC. 3. YOUTH PEDDLING.**

16 (a) FAIR LABOR STANDARDS ACT COVERAGE.—

17 (1) FINDING.—The last sentence of section 2(a)
18 (29 U.S.C. 202(a)) is amended by inserting after
19 “households” the following: “, and the employment
20 of employees under the age of 16 years in youth
21 peddling,”.

22 (2) DEFINITION.—Section 3 (29 U.S.C. 203) is
23 amended by adding at the end the following:

24 “(z) ‘Youth peddling’ means selling goods or services
25 to customers at their residences, places of business, or

1 public places such as street corners or public transpor-
 2 tation stations. ‘Youth peddling’ does not include the ac-
 3 tivities of persons who, as volunteers, sell goods or services
 4 on behalf of not-for-profit organizations.”.

5 (b) DEFINITION OF OPPRESSIVE CHILD LABOR.—
 6 Section 3(l) (29 U.S.C. 203(l)) is amended—

7 (1) in paragraph (1) of the first sentence, by
 8 inserting “youth peddling,” after “occupation other
 9 than”; and

10 (2) in the last sentence by inserting “youth
 11 peddling,” after “occupations other than”.

12 (c) PROHIBITION OF YOUTH PEDDLING.—Section
 13 12(e) (29 U.S.C. 212(e)) is amended by inserting after
 14 “oppressive child labor in commerce or in the production
 15 of goods for commerce” the following: “, or in youth ped-
 16 dling,”.

17 **SEC. 4. CIVIL AND CRIMINAL PENALTIES FOR CHILD**
 18 **LABOR VIOLATIONS.**

19 (a) CIVIL MONEY PENALTIES.—Section 16(e) (29
 20 U.S.C. 216(e)) is amended in the first sentence—

21 (1) by striking “\$10,000” and inserting
 22 “\$15,000”;

23 (2) by inserting after “subject to a civil penalty
 24 of” the following: “not less than \$500 and”.

1 (b) CRIMINAL PENALTIES.—Section 16(a) (29
2 U.S.C. 216(a)) is amended by adding at the end the fol-
3 lowing: “Any person who violates the provisions of section
4 15(a)(4), concerning oppressive child labor, shall on con-
5 viction be subject to a fine of not more than \$15,000, or
6 to imprisonment for not more than 5 years, or both, in
7 the case of a willful or repeat violation that results in or
8 contributes to a fatality of a minor employee or a perma-
9 nent disability of a minor employee, or a violation which
10 is concurrent with a criminal violation of any other provi-
11 sion of this Act or of any other Federal or State law.”.

12 **SEC. 5. GOODS TAINTED BY OPPRESSIVE CHILD LABOR.**

13 Section 12(a) (29 U.S.C. 212(a)) is amended by
14 striking the period at the end and inserting the following:
15 “: *And provided further*, that the Secretary shall determine
16 the circumstances under which such goods may be allowed
17 to be shipped or delivered for shipment in interstate com-
18 merce.”.

19 **SEC. 6. COORDINATION.**

20 Section 4 (29 U.S.C. 204) is amended by adding at
21 the end the following:

22 “(g) The Secretary shall encourage and establish
23 closer working relationships with non-governmental orga-
24 nizations and with State and local government agencies
25 having responsibility for administering and enforcing labor

1 and safety and health laws. Upon the request of the Sec-
2 retary, and to the extent permissible under applicable law,
3 State and local government agencies with information re-
4 garding injuries and deaths of employees shall submit such
5 information to the Secretary for use as appropriate in the
6 enforcement of section 12 and in the promulgation and
7 interpretation of the regulations and orders authorized by
8 section 3(l). The Secretary may reimburse such State and
9 local government agencies for such services.”.

10 **SEC. 7. REGULATIONS.**

11 (a) IN GENERAL.—The Secretary of Labor shall pro-
12 mulgate such regulations as may be necessary to carry out
13 this Act and the amendments made by this Act. Such reg-
14 ulations shall be promulgated through notice and comment
15 rulemaking in accordance with chapter 5 of title 5, United
16 States Code, taking into consideration the best available
17 data and including procedures to obtain and consider the
18 views of interested parties, such as agricultural employers,
19 workers, and injury prevention experts.

20 (b) EXISTING REGULATIONS.—

21 (1) IN GENERAL.—The regulations of the Sec-
22 retary of Labor that are in effect on the date of en-
23 actment of this Act which identify occupations in ag-
24 riculture that are particularly hazardous for the em-
25 ployment of children under the age of 16 (contained

1 in section 570.71 of title 29, Code of Federal Regu-
2 lations) shall continue in effect until superseded by
3 regulations promulgated under subsection (a). Prior
4 to the promulgation of such regulations, children
5 ages 14 and 15 may be employed outside of school
6 hours, in occupations in agriculture other than the
7 occupations that are identified in the regulations re-
8 ferred to in the proceeding sentence as being par-
9 ticularly hazardous.

10 (2) APPLICABILITY.—The regulations referred
11 to in paragraph (1) that are in effect on the date
12 of enactment of this Act, shall be applicable only to
13 the employment of children under the age of 16.

14 (3) RULE OF CONSTRUCTION.—Nothing in this
15 subsection shall be construed to restrict the agricul-
16 tural occupations in which children ages 16 and 17
17 may be employed until such time as the Secretary of
18 Labor promulgates regulations pursuant to sub-
19 section (a) to identify agricultural occupations that
20 are particularly hazardous for the employment of
21 such children, or detrimental to their health or well-
22 being.

23 (c) CONSULTATION.—With respect to the promulga-
24 tion of regulations to identify agricultural occupations
25 which are particularly hazardous for the employment of

1 children under the age of 18 or detrimental to the health
2 or well-being of such children, the Secretary of Labor shall
3 consult and collaborate with the Secretary of Agriculture,
4 and shall include in such regulations a process by which
5 children may be employed in such occupations as voca-
6 tional agriculture student-learners so long as such children
7 have successfully completed a Cooperative State Research,
8 Education, and Extension Service training program or
9 have successfully completed a bona fide agricultural edu-
10 cation training program. During the rulemaking process
11 under this section, the Secretary of Agriculture shall co-
12 operate with the Secretary of Labor, including providing
13 advice and technical expertise.

14 **SEC. 8. AUTHORIZATION.**

15 There is authorized to be appropriated to the Sec-
16 retary of Labor such sums as may be necessary for to
17 carry out this Act and the amendments made by this Act.

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