

109TH CONGRESS  
1ST SESSION

# H. R. 3482

To amend the Fair Labor Standards Act of 1938 to increase penalties for violations of child labor laws, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 27, 2005

Ms. ROYBAL-ALLARD introduced the following bill; which was referred to the Committee on Education and the Workforce

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## A BILL

To amend the Fair Labor Standards Act of 1938 to increase penalties for violations of child labor laws, 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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “Children’s Act for Responsible Employment of 2005” or  
6 the “CARE Act of 2005”.

7 (b) TABLE OF CONTENTS.—The table of contents for  
8 this Act is as follows:

Sec. 1. Short Title; Table of Contents.

Sec. 2. Revised Age Requirement for Child Agricultural Employment; Repeal of Waiver Provision for Hand Harvest Laborers.

- Sec. 3. Increased Civil Penalties for Child Labor Violations.  
 Sec. 4. Special Criminal Penalties for Certain Aggravated Child Labor Violations.  
 Sec. 5. Report to Congress on Work-Related Injuries to Children and Related Matters.  
 Sec. 6. Employer Reporting Requirements.  
 Sec. 7. Enforcement of Child Labor Provisions.  
 Sec. 8. Pesticide-Related Worker Protection Standard.  
 Sec. 9. Youth Activities for Farmworkers.  
 Sec. 10. Application of Fair Labor Standards Amendments.

1 **SEC. 2. REVISED AGE REQUIREMENT FOR CHILD AGRICUL-**  
 2 **TURAL EMPLOYMENT; REPEAL OF WAIVER**  
 3 **PROVISION FOR HAND HARVEST LABORERS.**

4 (a) REVISED AGE REQUIREMENT.—Section 13(c) of  
 5 the Fair Labor Standards Act of 1938 (29 U.S.C. 213(c))  
 6 is amended by striking paragraphs (1) and (2) and insert-  
 7 ing the following:

8 “(c)(1) The provisions of section 12 relating to child  
 9 labor shall not apply to any employee under 16 years of  
 10 age employed in agriculture, including in an agricultural  
 11 occupation that the Secretary of Labor finds and declares  
 12 to be particularly hazardous under section 3(1), if—

13 “(A) the employee is employed by a parent of  
 14 the employee or by a person standing in the place  
 15 of the parent, on a farm owned or operated by the  
 16 parent or person; and

17 “(B) the employment is outside of school hours  
 18 for the school district where the employee is living  
 19 while so employed.”.

1 (b) REPEAL OF WAIVER PROVISION.—Section 13(c)  
2 of such Act (29 U.S.C. 213(c)) is further amended by  
3 striking paragraph (4).

4 **SEC. 3. INCREASED CIVIL PENALTIES FOR CHILD LABOR**  
5 **VIOLATIONS.**

6 Section 16(e) of the Fair Labor Standards Act of  
7 1938 (29 U.S.C. 216(e)) is amended—

8 (1) in the first sentence by striking “not to ex-  
9 ceed \$10,000” and inserting “not less than \$500  
10 and not more than \$50,000”; and

11 (2) by inserting after the first sentence the fol-  
12 lowing new sentences: “In the case of a violation  
13 under the preceding sentence that results in a seri-  
14 ous lost-time work-related injury or a serious lost-  
15 time work-related illness (as such terms are defined  
16 in section 12A(c)) to an employee or results in the  
17 death of an employee, the civil penalty shall be not  
18 more than \$50,000. In the case of a repeated or  
19 willful violation that results in a serious lost-time  
20 work-related injury or a serious lost-time work-re-  
21 lated illness to an employee or results in the death  
22 of an employee, the civil penalty shall be not more  
23 than \$100,000.”.

1 **SEC. 4. SPECIAL CRIMINAL PENALTIES FOR CERTAIN AG-**  
2 **GRAVATED CHILD LABOR VIOLATIONS.**

3 Section 16 of the Fair Labor Standards Act of 1938  
4 (29 U.S.C. 216) is amended by adding at the end the fol-  
5 lowing:

6 “(f) Any person who repeatedly or willfully violates  
7 any of the provisions of section 12, and such violations  
8 result in or contribute to the death or permanent disability  
9 of an employee under 18 years of age at the time of such  
10 violation, shall be subject to imprisonment for not more  
11 than five years or a fine under title 18, United States  
12 Code, or both.”.

13 **SEC. 5. REPORT TO CONGRESS ON WORK-RELATED INJU-**  
14 **RIES TO CHILDREN AND RELATED MATTERS.**

15 The Fair Labor Standards Act of 1938 is amended  
16 by inserting after section 12 (29 U.S.C. 212) the following  
17 new section:

18 **“SEC. 12A. DATA ON WORK-RELATED INJURIES TO CHIL-**  
19 **DREN AND RELATED MATTERS.**

20 “(a) DATA ANALYSIS.—Using the sources specified  
21 in subsection (b), the Secretary shall analyze data con-  
22 cerning children under the age of 18 who are employed  
23 in agriculture, and with respect to such children, each seri-  
24 ous lost-time work-related injury, serious lost-time work-  
25 related illness, or work-related death.

1       “(b) SOURCES SPECIFIED.—The sources referred to  
2 in subsection (a) are the following:

3           “(1) Sources within the Department of Labor,  
4 including the Wage and Hour Division, the Bureau  
5 of Labor Statistics, and the Occupational Safety and  
6 Health Administration.

7           “(2) State employment security agencies and  
8 other relevant State agencies.

9           “(3) The National Institute for Occupational  
10 Safety and Health.

11       “(c) DEFINITIONS.—As used in this section:

12           “(1) The term ‘serious lost-time work-related  
13 injury’ means, with respect to an employee under 18  
14 years of age, a work-related injury which results in  
15 lost employment time for such employee of at least  
16 one work day.

17           “(2) The term ‘serious lost-time work-related  
18 illness’ means, with respect to an employee under 18  
19 years of age, a work-related illness which results in  
20 lost employment time for such employee of at least  
21 one work day.

22       “(d) REPORT.—The Secretary shall submit an an-  
23 nual report to Congress which shall include the fol-  
24 lowing—

1           “(1) a summary of the data collected by the  
2           Secretary under this section and section 12B;

3           “(2) an evaluation, based on such data, that re-  
4           flects the status of child labor and related safety and  
5           health hazards; and

6           “(3) any information, based on such data, that  
7           leads the Secretary to believe that children under 18  
8           years of age may have been employed in violation of  
9           section 12.”.

10 **SEC. 6. EMPLOYER REPORTING REQUIREMENTS.**

11           The Fair Labor Standards Act of 1938 (29 U.S.C.  
12 201 et seq.) is amended by inserting after section 12A,  
13 as added by section 5, the following new section:

14 **“SEC. 12B EMPLOYER REPORTING REQUIREMENTS.**

15           “(a) REPORT.—Not later than five days after an  
16 event specified under subsection (b), the employer involved  
17 in the event shall submit a report to the Secretary in ac-  
18 cordance with subsection (c).

19           “(b) EVENTS SPECIFIED.—An event referred to in  
20 subsection (a) is—

21           “(1) a serious lost-time work-related injury to  
22 an employee under 18 years of age employed in agri-  
23 culture;

1           “(2) the discovery of a serious lost-time work-  
2           related illness of an employee under 18 years of age  
3           employed in agriculture; or

4           “(3) a work-related death of an employee under  
5           18 years of age employed in agriculture.

6           “(c) CONTENTS OF REPORT.—The report required by  
7           subsection (a) shall include—

8           “(1) the name and address of the employer;

9           “(2) the name, address, and age of the em-  
10          ployee;

11          “(3) details about the injury, illness, or death  
12          of the employee; and

13          “(4) such other information as the Secretary of  
14          Labor may by regulation prescribe.

15          “(d) PENALTY FOR FAILURE TO REPORT.—The Sec-  
16          retary may assess a civil penalty on any employer who fails  
17          to file a report as required by this section in an amount  
18          up to \$7,000 per violation.

19          “(e) DEFINITION.—As used in this section, the terms  
20          ‘serious lost-time work-related injury’ and ‘serious lost-  
21          time work-related illness’ have the meanings given those  
22          terms in section 12A.”.

23       **SEC. 7. ENFORCEMENT OF CHILD LABOR PROVISIONS.**

24           Subject to the availability of appropriations, the Sec-  
25          retary of Labor shall—

1           (1) employ at least 100 additional inspectors  
2           within the Wage and Hour division of the Depart-  
3           ment of Labor for the principal purpose of enforcing  
4           compliance with child labor laws; and

5           (2) provide for a 10 percent increase in the  
6           budget of the Office of the Solicitor of Labor for the  
7           principal purpose of increasing prosecution of viola-  
8           tions of child labor laws.

9   **SEC. 8. PESTICIDE-RELATED WORKER PROTECTION STAND-**  
10                                   **ARD.**

11           (a) INCORPORATION OF WORKER PROTECTION  
12   STANDARD IN CHILD LABOR PROVISIONS.—Not later  
13   than 180 days after the date of enactment of this Act,  
14   the Secretary of Labor shall issue final rules to incor-  
15   porate within the rules relating to the child labor provi-  
16   sions of section 12 of the Fair Labor Standards Act of  
17   1938 (29 U.S.C. 212) the worker protection standard for  
18   workers exposed to pesticides in part 170 of title 40, Code  
19   of Federal Regulations. If, after incorporating such stand-  
20   ard, the standard in such part is revised, the Secretary  
21   shall, by rule, incorporate such revisions within the rules  
22   relating to the child labor provisions of section 12 of the  
23   Fair Labor Standards Act of 1938 (29 U.S.C. 212).

24           (b) RECONCILIATION OF CIVIL PENALTIES.—Section  
25   16 of the Fair Labor Standards Act of 1938 (29 U.S.C.

1 216), as amended by sections 3 and 4, is further amended  
2 by adding at the end the following new subsections:

3       “(g) The amount of a civil penalty imposed by the  
4 Secretary on a violator for a violation of section 12 of this  
5 Act may be offset by the Administrator of the Environ-  
6 mental Protection Agency against the amount of a civil  
7 penalty imposed by the Administrator for a violation of  
8 the worker protection standard promulgated under the  
9 Federal Insecticide, Fungicide, and Rodenticide Act (7  
10 U.S.C. prec. 121 et seq.) by the same violator if the Ad-  
11 ministrator determines that the violation of such standard  
12 involved the same conduct affecting the same child work-  
13 ers in whose interests the first civil penalty was imposed.

14       “(h) The amount of a civil penalty imposed by the  
15 Administrator of the Environmental Protection Agency on  
16 a violator for a violation of the worker protection standard  
17 promulgated under the Federal Insecticide, Fungicide,  
18 and Rodenticide Act (7 U.S.C. prec. 121 et seq.) may be  
19 offset by the Secretary against the amount of a civil pen-  
20 alty imposed by the Secretary for a violation of section  
21 12 of this Act by the same violator if the Secretary deter-  
22 mines that the violation of such section involved the same  
23 conduct affecting the same child workers in whose inter-  
24 ests the first civil penalty was imposed.”.

1 **SEC. 9. YOUTH ACTIVITIES FOR FARMWORKERS.**

2 Section 127(b)(1)(A)(iii) of the Workforce Invest-  
3 ment Act of 1996 is amended to read as follows:

4 “(iii) YOUTH ACTIVITIES FOR FARM-  
5 WORKERS.—The Secretary shall make  
6 available the greater of \$10,000,000 or 4  
7 percent of the amount appropriated under  
8 section 137(a) for any fiscal year to pro-  
9 vide youth activities under section 167.”.

10 **SEC. 10. APPLICATION OF FAIR LABOR STANDARDS**  
11 **AMENDMENTS.**

12 (a) RULEMAKING.—Not later than 180 days after the  
13 date of enactment of this Act, the Secretary of Labor shall  
14 issue final rules to implement the amendments made by  
15 sections 2 through 6. The rules issued under this sub-  
16 section shall take effect not later than 30 days after the  
17 date on which the final rules are published in the Federal  
18 Register.

19 (b) VIOLATIONS.—The amendments made by sections  
20 3 and 4 shall apply to violations of the Fair Labor Stand-  
21 ards Act of 1938 (29 U.S.C. 201 et seq.) that occur after  
22 the date on which the rules issued under subsection (a)  
23 take effect.

24 (c) RULE OF CONSTRUCTION.—Nothing in the  
25 amendments made by section 3 or 4 shall be construed  
26 to preempt any State law that provides protections or rem-

1 edies for employees that are greater than the protections  
2 or remedies provided under such amendments.

3 (d) EMPLOYER REPORTING REQUIREMENTS.—The  
4 employer reporting requirements of section 12B of the  
5 Fair Labor Standards Act of 1938, as added by section  
6 6, shall take effect on the date on which the final rules  
7 issued under subsection (a) take effect.

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