

113TH CONGRESS
1ST SESSION

H. R. 3173

To clarify that volunteers at a children’s consignment event are not employees under the Fair Labor Standards Act of 1938.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 25, 2013

Mr. GRIFFIN of Arkansas introduced the following bill; which was referred to the Committee on Education and the Workforce

A BILL

To clarify that volunteers at a children’s consignment event are not employees under the Fair Labor Standards Act of 1938.

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 “Children’s Consign-
5 ment Event Recognition Act of 2013”.

6 **SEC. 2. PURPOSE.**

7 The purpose of this Act is to ensure that individuals
8 and families may pool their resources, time, efforts, and
9 energies, with or without the assistance of a facilitator,
10 to sell, purchase, and otherwise exchange children’s cloth-

1 ing, toys, bedding, furniture, and related accessories, and
2 maternity clothing and accessories without fear that they
3 will be deemed to be employees under the Fair Labor
4 Standards Act of 1938 (29 U.S.C. 201 et seq.).

5 **SEC. 3. AMENDMENTS TO THE FAIR LABOR STANDARDS**
6 **ACT OF 1938.**

7 Section 3(e) of the Fair Labor Standards Act of 1938
8 (29 U.S.C. 203) is amended—

9 (1) in paragraph (1), by striking “and (4)” and
10 inserting “, (4), (5), and (6)”; and

11 (2) by adding at the end the following:

12 “(6)(A) The term ‘employee’ does not include—

13 “(i) individuals who volunteer their serv-
14 ices before, during, or after a children’s con-
15 signment event with or without the assistance
16 of a facilitator and—

17 “(I) provide not less than 15 items for sale
18 at such children’s consignment event;

19 “(II) receive a right to shop from the
20 facilitator at such children’s consignment event
21 before such event is open to the general public;

22 or

23 “(ii) the spouse, children, spouses of chil-
24 dren, grandchildren, parents, and parents of

1 spouses of the individuals described in clause
2 (i).

3 “(B) For purposes of this paragraph, the term
4 ‘children’s consignment event’ means a sale or other
5 event in which—

6 “(i) not less than 90 percent of the fair
7 market value, in the aggregate, of the items of-
8 fered for sale at such event are—

9 “(I) children’s or maternity items;
10 and

11 “(II) resale items offered for sale on
12 consignment by consignors; and

13 “(ii) such event is held in a single physical
14 location and is open to the public for the sale
15 of goods for 8 or fewer sale days within any 30-
16 day period.

17 “(C) For purposes of this paragraph, the term
18 ‘facilitator’ means a person that organizes or hosts
19 a children’s consignment event, or otherwise actively
20 provides an opportunity for individuals described in
21 subparagraph (A) to volunteer at a children’s con-
22 signment event.”.

○