A BILL

To amend the Fair Labor Standards Act of 1938 to strengthen the provisions relating to child labor, and for other purposes.

1

Be it enacted by the Senate and House of Representa-

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 Act for Re-

5

ponsible Employment and Farm Safety of 2019” or the

6

“CARE Act of 2019”.

116TH CONGRESS
1ST SESSION

H. R. 3394

To amend the Fair Labor Standards Act of 1938 to strengthen the provisions relating to child labor, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 20, 2019

Ms. ROYBAL-ALLARD (for herself, Ms. SCHAKOWSKY, Mr. POCAN, Mr. SERRANO, Ms. DELAUNO, Mr. GALLEGO, Ms. LEE of California, Mr. Cárdenas, Mr. LOWENTHAL, Mr. SCHIFF, Mr. Sires, Mr. McGovern, Ms. Barragán, Ms. CLARKE of New York, Ms. NORTON, Ms. BASS, Mr. Sablan, Ms. Moore, Ms. WILSON of Florida, Ms. JACKSON LEE, Mr. LYNCH, Mrs. NAPOLITANO, Ms. KAPTUR, Mr. LEVIN of Michigan, and Mr. Cicilline) introduced the following bill; which was referred to the Committee on Education and Labor.
SEC. 2. FINDINGS.

Congress finds the following:

1. Across the United States, there are hundreds of thousands of children younger than 18 years old who are working in the agricultural industry. It is difficult to know exactly how many children are performing the grueling work that is required to plant, pick, process, and pack the food that people eat every day.

2. For farmworkers, many of whom are immigrants, all of whom are poor and some of whom are undocumented, it is challenging to capture accurate data that reflects both the percentage of children working in one of the nation’s most dangerous occupations, as well as the scope of the work that they are engaged in. One thing that is notable is that unlike virtually every other job in the labor market, Congress has made exceptions to allow children to lawfully work in this industry.

3. Historically, children have been permitted to work in agriculture at younger ages, for longer hours and under more hazardous conditions than other working children. Like most other agricultural workers, they remain excluded from basic protections provided to workers in other industries under Federal employment laws. Even where protections...
exist under Federal law, they are seldom ever enforced.

(4) Allowing children to engage in agricultural work from a young age can result in long-term negative consequences, especially when the child worker is not employed on a family farm where family members take precautions for their children and family members. Working in agriculture as a child can result in an early end to childhood, and long hours worked at unfair and unlawful wages can pose risks to their overall health and lives.

(5) Child farmworkers suffer work-related fatalities at over four times the rate of other young workers, often because exceptions are made that allow farmworker children to operate heavy, dangerous equipment and to be exposed to other hazards. Yet, great efforts have been taken to strictly limit the possibility of children in other industries from engaging in dangerous work activities or jobs. The demands imposed by doing agricultural work, coupled with the low pay and poor working conditions, result in shocking drop-out rates from school. Aside from these risks, farmworker girls are exceptionally vulnerable to sexual abuse and harassment.
by supervisors, company owners, crew leaders, co-
workers and others.

(6) While the focus of this Act is on improving
the health and safety for all children engaged in ag-

ducultural labor, primarily through strengthened gen-
eral wage and hour protections, the high rates of
workplace sexual violence against farmworker women
and girls should not be ignored, particularly given
that they are susceptible to this violence due to the
overall lack of workplace protections available to
them.

SEC. 3. AMENDED DEFINITIONS.

Section 3(l) of the Fair Labor Standards Act of 1938
(29 U.S.C. 203(l)) is amended to read as follows:

“(l) ‘Oppressive child labor’ means a condition of em-
ployment under which—

“(1) any employee who is 16 or 17 years of age
is employed by an employer in any occupation found
by the Secretary and by order declared to be par-
ticularly hazardous for the employment of children
between such ages or detrimental to their health or
well-being;

“(2) any employee who is 14 or 15 years of age
is employed by an employer, unless the Secretary
has determined that the employment is confined to
periods which will not interfere with the schooling of the employee, and that the conditions of employment will not interfere with the health and well-being of the employee; or

“(3) any employee who is under 14 years of age is employed by an employer.”.

SEC. 4. REVISED AGE REQUIREMENT FOR CHILD AGRICULTURAL EMPLOYMENT; REPEAL OF WAIVER PROVISION FOR HAND HARVEST LABORERS.

(a) Revised Age Requirement.—Section 13(c) of the Fair Labor Standards Act of 1938 (29 U.S.C. 213(c)) is amended by striking paragraphs (1) and (2) and inserting the following:

“(1) The provisions of section 12 relating to child labor shall not apply to any employee under 18 years of age who is employed in agriculture by his or her parent, or by a person standing in the place of the parent, on a farm owned by the parent or person.

“(2) The provisions of section 12 relating to child labor shall not apply to any employee under 16 years of age who is employed by his or her parent, or by a person standing in the place of the parent, in employment other than agricultural employment, manufacturing, mining, or any other employment
the Secretary finds to be particularly hazardous for
the employment of a child 16 or 17 years of age or
detrimental to their health or well-being.”.

(b) REPEAL OF WAIVER PROVISION.—Section 13(c)
of such Act (29 U.S.C. 213(c)) is further amended by
striking paragraph (4) and redesignating paragraphs (5)
through (7) as paragraphs (4) through (6), respectively.

SEC. 5. INCREASED CIVIL PENALTIES FOR CHILD LABOR
VIOLATIONS.

Paragraph (1) of section 16(e) of the Fair Labor
Standards Act of 1938 (29 U.S.C. 216(e)(1)) is amend-
ed—

(1) by striking “person” each place it appears
and inserting “employer”;

(2) in subparagraph (A)—

(A) by striking “not to exceed” and insert-
ing “of”; and

(B) by amending clauses (i) and (ii) to
read as follows:

“(i) not less than $500 and not more than
$15,000 for each employee who was the subject of
such a violation; or

“(ii) not less than $15,000 and not more than
$50,000 with regard to each such violation that
causes the serious injury, serious illness, or death of
any employee under the age of 18 years, which pen-
alty may be doubled where the violation is a re-
peated or willful violation.”; and

(3) in subparagraph (B) by striking “the term
‘serious injury’ means” and inserting “the terms ‘se-
rious injury’ and ‘serious illness’ mean”.

SEC. 6. SPECIAL CRIMINAL PENALTIES FOR CERTAIN AG-
GRAVATED CHILD LABOR VIOLATIONS.

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

(1) in subsection (a), by striking “Any person”
and inserting “Except as provided in subsection (f),
any person”; and

(2) by adding at the end the following:
“(f) Any person who repeatedly or willfully violates
any of the provisions of section 12, if violations result in
or cause the death or serious injury or serious illness of
an employee under 18 years of age at the time of such
violation, shall be subject to imprisonment for not more
than 5 years or a fine under title 18, United States Code,
or both.”.
SEC. 7. REPORT TO CONGRESS ON WORK-RELATED INJURIES TO CHILDREN AND RELATED MATTERS.

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

“SEC. 12A. DATA ON WORK-RELATED INJURIES TO CHILDREN AND RELATED MATTERS.

“(a) DATA ANALYSIS.—Using the sources specified in subsection (b), the Secretary shall analyze data concerning children under the age of 18 who are employed in agriculture and each work-related injury, illness, or death of any such child.

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

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

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

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

“(e) REPORT.—

“(1) IN GENERAL.—The Secretary shall annually submit report to Congress which shall include—
“(A) a summary of the data collected by
the Secretary under this section and section
12B;
“(B) an evaluation, based on such data,
that reflects the status of child labor and re-
lated safety and health hazards; and
“(C) any information, based on such data,
that leads the Secretary to believe that children
under 18 years of age may have been employed
in violation of section 12.
“(2) PUBLICATION.—The Secretary shall, on
the date that the Secretary submits each report
under paragraph (1) to Congress, publish each such
report in the Federal Register and ensure that such
reports are posted on the Department of Labor
website.”.

SEC. 8. EMPLOYER REPORTING REQUIREMENTS.

201 et seq.) is amended by inserting after the new section
12A the following new section:

“SEC. 12B. EMPLOYER REPORTING REQUIREMENTS.

“(a) REPORT.—Not later than 5 days after an event
specified under subsection (b), the employer involved in
the event shall submit a report to the Secretary in accord-
ance with subsection (c).
“(b) Events Specified.—An event referred to in subsection (a) is—

“(1) a work-related serious injury to an employee under 18 years of age employed in agriculture;

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

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

“(c) Contents.—The report required by subsection (a) shall include—

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

“(2) the name, address, and age of the employee;

“(3) details relevant to the incident, to include environmental hazards, such as chemical or pesticide exposure, use of machinery or tools at time of incident, work tasks performed at time of incident, and other details relating to the incident; and

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

“(d) Failure to Report.—The Secretary may assess a civil penalty on any employer who fails to file a
report as required by this section in an amount not less than $500 and not more than $7,000 per violation.

“(e) DEFINITION.—In this section, the terms ‘serious injury’ and ‘serious illness’ have the meanings given such terms in section 16(e)(1)(B).

“(f) EFFECTIVE DATE.—The requirements under this section shall take effect on the date that is the earlier of—

“(1) the date on which the Secretary issues a rule under section 10(a) of the CARE Act of 2019; or

“(2) the date that is 6 months after the date of the enactment of such Act.”.

SEC. 9. PESTICIDE-RELATED WORKER PROTECTION STANDARD.

(a) CONGRESSIONAL FINDING.—Congress finds and declares that the employment of children under the age of 18 in the occupation of a pesticide handler, as such occupation is defined in the worker protection standard for workers exposed to pesticides in part 170 of title 40, Code of Federal Regulations, is particularly hazardous for, and detrimental to the health and well-being of, such children.

(b) REQUIREMENT FOR SECRETARY OF LABOR.—Not later than the date that is 30 days after the date of
enactment of this Act, the Secretary of Labor shall revise
part 570 of title 29, Code of Federal Regulations, to pro-
hibit the employment of a child under the age of 18 to
perform any of the tasks or duties described in the defini-
tion of the term “handler” in section 170.3 of title 40,
Code of Federal Regulations.

SEC. 10. APPLICATION OF FAIR LABOR STANDARDS
AMENDMENTS.

(a) RULEMAKING.—Not later than the date that is
6 months after the date of the enactment of this Act, the
Secretary of Labor may prescribe rules as necessary to
implement the amendments made by sections 3 through
6 and the revision required by section 8. Any such rules
issued shall take effect not later than 30 days after the
date on which the rules are published in the Federal Reg-
ister.

(b) VIOLATIONS.—The amendments made by sections
3 through 6 and the revision required by section 9 shall
apply to violations of the Fair Labor Standards Act of
1938 (29 U.S.C. 201 et seq.) that occur after the date
on which the rules issued under subsection (a) take effect.

(c) RULE OF CONSTRUCTION.—Nothing in the
amendments made by section 4, 5, or 6 or in the revision
required by section 9 shall be construed to preempt any
State law that provides protections or remedies for em-
employees that are greater than the protections or remedies provided under such amendments or such revision.