

112TH CONGRESS
1ST SESSION

H. R. 2234

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

IN THE HOUSE OF REPRESENTATIVES

JUNE 16, 2011

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

A BILL

To amend the Fair Labor Standards Act of 1938 to strengthen 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.**

4 This Act may be cited as the “Children’s Act for Re-
5 sponsible Employment of 2011” or the “CARE Act of
6 2011”.

7 **SEC. 2. AMENDED DEFINITIONS.**

8 Section 3(l) of the Fair Labor Standards Act of 1938
9 (29 U.S.C. 203(l)) is amended to read as follows:

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

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

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

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

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

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

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

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

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

20 **SEC. 4. INCREASED CIVIL PENALTIES FOR CHILD LABOR**
21 **VIOLATIONS.**

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

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

3 (2) in subparagraph (A)—

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

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

8 “(i) not less than \$500 and not more than
9 \$15,000 for each employee who was the subject of
10 such a violation; or

11 “(ii) not less than \$15,000 and not more than
12 \$50,000 with regard to each such violation that
13 causes the serious injury, serious illness, or death of
14 any employee under the age of 18 years, which pen-
15 alty may be doubled where the violation is a re-
16 peated or willful violation.”; and

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

20 **SEC. 5. SPECIAL CRIMINAL PENALTIES FOR CERTAIN AG-**
21 **GRAVATED CHILD LABOR VIOLATIONS.**

22 Section 16 of the Fair Labor Standards Act of 1938
23 (29 U.S.C. 216) is amended—

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

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

5 “(f) Any person who repeatedly or willfully violates
6 any of the provisions of section 12, and such violations
7 result in or cause the death or serious injury or serious
8 illness of an employee under 18 years of age at the time
9 of such violation, shall be subject to imprisonment for not
10 more than 5 years or a fine under title 18, United States
11 Code, or both.”.

12 **SEC. 6. PESTICIDE-RELATED WORKER PROTECTION STAND-**
13 **ARD.**

14 Congress finds and declares that the employment of
15 children under the age of 18 in the occupation of a pes-
16 ticide handler as defined in the worker protection standard
17 for workers exposed to pesticides in part 170 of title 40,
18 Code of Federal Regulations, is particularly hazardous to
19 such children and detrimental to their health and well-
20 being. The Secretary of Labor shall revise part 570 of title
21 29, Code of Federal Regulations, to prohibit the employ-
22 ment of a child under the age of 18 to perform any of
23 the tasks or duties described in the definition of the term
24 “handler” in section 170.3 of title 40, Code of Federal
25 Regulations.

1 **SEC. 7. APPLICATION OF FAIR LABOR STANDARDS AMEND-**
2 **MENTS.**

3 (a) **RULEMAKING.**—The Secretary of Labor may pre-
4 scribe rules as necessary to implement the amendments
5 made by sections 2 through 5 and the revision required
6 by section 6. Any such rules issued shall take effect not
7 later than 30 days after the date on which such rules are
8 published in the Federal Register.

9 (b) **VIOLATIONS.**—The amendments made by sections
10 2, 3, 4, and 5 and the revision required by section 7 shall
11 apply to violations of the Fair Labor Standards Act of
12 1938 (29 U.S.C. 201 et seq.) that occur after the date
13 on which the rules issued under subsection (a) take effect.

14 (c) **RULE OF CONSTRUCTION.**—Nothing in the
15 amendments made by section 3, 4, or 5 or in the revision
16 required by section 7 shall be construed to preempt any
17 State law that provides protections or remedies for em-
18 ployees that are greater than the protections or remedies
19 provided under such amendments or such revision.

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