

111TH CONGRESS
1ST SESSION

H. R. 3564

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

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 15, 2009

Ms. ROYBAL-ALLARD (for herself, Mr. HINOJOSA, and Mr. CONNOLLY of Virginia) introduced the following bill; which was referred to the Committee on Education and Labor

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 2009” or the “CARE Act of
6 2009”.

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—

7 (1) by striking paragraph (1) and inserting the
8 following:

9 “(1) The provisions of section 12 relating to
10 child labor shall apply to any employee under 18
11 years of age employed in agriculture unless the em-
12 ployee is employed by a parent of the employee or
13 by a person standing in the place of the parent, on
14 a farm owned or operated by the parent or person.”;
15 and

16 (2) by striking paragraph (2).

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

20 **SEC. 3. 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—

25 (1) in subparagraph (A)—

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

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

5 “(i) not less than \$500 and not more than
6 \$15,000 for each employee who was the subject of
7 such a violation; or

8 “(ii) not less than \$15,000 and not more than
9 \$50,000 with regard to each such violation that
10 causes the serious injury, serious illness, or death of
11 any employee under the age of 18 years, which pen-
12 alty may be doubled where the violation is a re-
13 peated or willful violation.”; and

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

17 **SEC. 4. SPECIAL CRIMINAL PENALTIES FOR CERTAIN AG-**
18 **GRAVATED CHILD LABOR VIOLATIONS.**

19 Section 16 of the Fair Labor Standards Act of 1938
20 (29 U.S.C. 216) is amended—

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

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

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

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

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

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

15 “(a) DATA ANALYSIS.—Using the sources specified
16 in subsection (b), the Secretary shall analyze data con-
17 cerning children under the age of 18 who are employed
18 in agriculture, and with respect to such children, each
19 work-related injury, illness, or death.

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

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

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

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

5 “(c) REPORT.—The Secretary shall submit an annual
6 report to Congress which shall include—

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

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

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

16 The Secretary shall publish each such report in the Fed-
17 eral Register and shall ensure that such reports are posted
18 on the Department of Labor website.”.

19 **SEC. 6. EMPLOYER REPORTING REQUIREMENTS.**

20 The Fair Labor Standards Act of 1938 (29 U.S.C.
21 201 et seq.) is amended by inserting after section 12A,
22 as added by section 5, the following new section:

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

24 “(a) REPORT.—Not later than 5 days after an event
25 specified under subsection (b), the employer involved in

1 the event shall submit a report to the Secretary in accord-
2 ance with subsection (c).

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

5 “(1) a work-related serious injury to an em-
6 ployee under 18 years of age employed in agri-
7 culture;

8 “(2) the discovery of a work-related serious ill-
9 ness of an employee under 18 years of age employed
10 in agriculture; or

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

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

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

16 “(2) the name, address, and age of the em-
17 ployee;

18 “(3) details relevant to the incident, to include
19 environmental hazards, such as chemicals or pes-
20 ticide exposure; use of machinery or tools at time of
21 incident; work tasks performed at time of incident;
22 and other details relating to the incident; and

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

1 “(d) PENALTY FOR FAILURE TO REPORT.—The Sec-
2 retary may assess a civil penalty on any employer who fails
3 to file a report as required by this section in an amount
4 not less than \$500 and not more than \$7,000 per viola-
5 tion.

6 “(e) DEFINITION.—As used in this section, the terms
7 ‘serious injury’ and ‘serious illness’ have the meanings
8 given such terms in section 16(e)(1)(B).”.

9 **SEC. 7. PESTICIDE-RELATED WORKER PROTECTION STAND-**
10 **ARD.**

11 Congress finds and declares that the employment of
12 children under the age of 18 in any occupation or under
13 any circumstances inconsistent with the worker protection
14 standard for workers exposed to pesticides in part 170 of
15 title 40, Code of Federal Regulations, is particularly haz-
16 ardous to such children and detrimental to their health
17 and well-being. The Secretary of Labor shall, not later
18 than 180 days after the date of enactment of this Act,
19 revise part 570 of title 29, Code of Federal Regulations,
20 to prohibit the employment of a child under the age of
21 18 in any occupation or under any circumstances not per-
22 mitted by part 170 of title 40, Code of Federal Regula-
23 tions.

1 **SEC. 8. APPLICATION OF FAIR LABOR STANDARDS AMEND-**
2 **MENTS.**

3 (a) RULEMAKING.—Not later than 180 days after the
4 date of enactment of this Act, the Secretary of Labor shall
5 issue final rules to implement the amendments made by
6 sections 2 through 6 and the revision required by section
7 7. The rules issued under this subsection shall take effect
8 not later than 30 days after the date on which the final
9 rules are published in the Federal Register.

10 (b) VIOLATIONS.—The amendments made by sections
11 2, 3, 4, and 6 and the revision required by section 7 shall
12 apply to violations of the Fair Labor Standards Act of
13 1938 (29 U.S.C. 201 et seq.) that occur after the date
14 on which the rules issued under subsection (a) take effect.

15 (c) RULE OF CONSTRUCTION.—Nothing in the
16 amendments made by section 2, 3, 4, or 6 or in the revi-
17 sion required by section 7 shall be construed to preempt
18 any State law that provides protections or remedies for
19 employees that are greater than the protections or rem-
20 edies provided under such amendments or such revision.

21 (d) EMPLOYER REPORTING REQUIREMENTS.—The
22 employer reporting requirements of section 12B of the
23 Fair Labor Standards Act of 1938, as added by section
24 6, shall take effect on the date on which the final rules
25 issued under subsection (a) take effect.

1 **SEC. 9. EFFECTIVE DATE.**

2 This Act (other than section 8) and the amendments
3 made by this Act shall take effect on the date that is 30
4 days after the regulations required under section 8 are
5 published in the Federal Register.

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