

State, and if either spouse filed a timely consent to an election under subsection (a) for a taxable year beginning before January 1, 1961, the time for filing the consent of the other spouse to such election shall not expire prior to May 15, 1961."

Approved May 4, 1961.

## Public Law 87-30

### AN ACT

To amend the Fair Labor Standards Act of 1938, as amended, to provide coverage for employees of large enterprises engaged in retail trade or service and of other employers engaged in commerce or in the production of goods for commerce, to increase the minimum wage under the Act to \$1.25 an hour, and for other purposes.

May 5, 1961  
[H. R. 3935]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Fair Labor Standards Amendments of 1961".

Fair Labor Standards  
Amendments  
of 1961.

### DEFINITIONS

SEC. 2. (a) Paragraph (m) of section 3 of the Fair Labor Standards Act of 1938, as amended, defining the term "wage", is amended by inserting before the period at the end thereof a colon and the following: "Provided, That the cost of board, lodging, or other facilities shall not be included as a part of the wage paid to any employee to the extent it is excluded therefrom under the terms of a bona fide collective-bargaining agreement applicable to the particular employee: *Provided further,* That the Secretary is authorized to determine the fair value of such board, lodging, or other facilities for defined classes of employees and in defined areas, based on average cost to the employer or to groups of employers similarly situated, or average value to groups of employees, or other appropriate measures of fair value. Such evaluations, where applicable and pertinent, shall be used in lieu of actual measure of cost in determining the wage paid to any employee".

52 Stat. 1061.  
29 USC 203.

(b) Paragraph (n) of section 3 of such Act is amended by inserting immediately before "shall not" the following " , except as used in subsection (s) (1),".

63 Stat. 911.

(c) Section 3 of such Act is further amended by adding at the end thereof the following new paragraphs:

"(p) 'American vessel' includes any vessel which is documented or numbered under the laws of the United States.

"(q) 'Secretary' means the Secretary of Labor.

"(r) 'Enterprise' means the related activities performed (either through unified operation or common control) by any person or persons for a common business purpose, and includes all such activities whether performed in one or more establishments or by one or more corporate or other organizational units including departments of an establishment operated through leasing arrangements, but shall not include the related activities performed for such enterprise by an independent contractor: *Provided,* That, within the meaning of this subsection, a retail or service establishment which is under independent ownership shall not be deemed to be so operated or controlled as to be other than a separate and distinct enterprise by reason of any arrangement, which includes, but is not necessarily limited to, an agreement, (1) that it will sell, or sell only, certain goods specified by a particular manufacturer, distributor, or advertiser, or (2) that it will join with other such establishments in the same industry for the purpose of collective purchasing, or (3) that it will have the exclusive right to

sell the goods or use the brand name of a manufacturer, distributor, or advertiser within a specified area, or by reason of the fact that it occupies premises leased to it by a person who also leases premises to other retail or service establishments.

“(s) ‘Enterprise engaged in commerce or in the production of goods for commerce’ means any of the following in the activities of which employees are so engaged, including employees handling, selling, or otherwise working on goods that have been moved in or produced for commerce by any person:

“(1) any such enterprise which has one or more retail or service establishments if the annual gross volume of sales of such enterprise is not less than \$1,000,000, exclusive of excise taxes at the retail level which are separately stated and if such enterprise purchases or receives goods for resale that move or have moved across State lines (not in deliveries from the reselling establishment) which amount in total annual volume to \$250,000 or more;

“(2) any such enterprise which is engaged in the business of operating a street, suburban or interurban electric railway, or local trolley or motorbus carrier if the annual gross volume of sales of such enterprise is not less than \$1,000,000, exclusive of excise taxes at the retail level which are separately stated;

“(3) any establishment of any such enterprise, except establishments and enterprises referred to in other paragraphs of this subsection, which has employees engaged in commerce or in the production of goods for commerce if the annual gross volume of sales of such enterprise is not less than \$1,000,000;

“(4) any such enterprise which is engaged in the business of construction or reconstruction, or both, if the annual gross volume from the business of such enterprise is not less than \$350,000;

“(5) any gasoline service establishment if the annual gross volume of sales of such establishment is not less than \$250,000, exclusive of excise taxes at the retail level which are separately stated:

*Provided*, That an establishment shall not be considered to be an enterprise engaged in commerce or in the production of goods for commerce, or a part of an enterprise engaged in commerce or in the production of goods for commerce, and the sales of such establishment shall not be included for the purpose of determining the annual gross volume of sales of any enterprise for the purpose of this subsection, if the only employees of such establishment are the owner thereof or persons standing in the relationship of parent, spouse, or child of such owner.”

#### INVESTIGATIONS OF EFFECTS ON EMPLOYMENT OF FOREIGN COMPETITION

52 Stat. 1061.  
29 USC 204.

SEC. 3. Section 4 of such Act is amended by adding at the end thereof the following new subsection:

“(e) Whenever the Secretary has reason to believe that in any industry under this Act the competition of foreign producers in United States markets or in markets abroad, or both, has resulted, or is likely to result, in increased unemployment in the United States, he shall undertake an investigation to gain full information with respect to the matter. If he determines such increased unemployment has in fact resulted, or is in fact likely to result, from such competition, he shall make a full and complete report of his findings and determinations to the President and to the Congress: *Provided*, That he may also include in such report information on the increased employment resulting from additional exports in any industry under this Act as he may determine to be pertinent to such report.”

## SPECIAL INDUSTRY COMMITTEES FOR PUERTO RICO AND THE VIRGIN ISLANDS

SEC. 4. Subsection (a) of section 5 of such Act is amended by inserting after the words "production of goods for commerce" wherever they appear, the following: "or employed in any enterprise engaged in commerce or in the production of goods for commerce".

63 Stat. 911.  
29 USC 205.

## MINIMUM WAGES

SEC. 5. (a) (1) Section 6(a) of such Act is amended by inserting after the word "who" in the portion thereof preceding paragraph (1), the words "in any workweek".

(2) Paragraph (1) of section 6(a) of such Act is amended to read as follows:

69 Stat. 711.  
29 USC 206.

"(1) not less than \$1.15 an hour during the first two years from the effective date of the Fair Labor Standards Amendments of 1961, and not less than \$1.25 an hour thereafter, except as otherwise provided in this section."

(3) The first sentence of paragraph (3) of section 6(a) of such Act is amended to read as follows:

70 Stat. 1118.

"(3) if such employee is employed in American Samoa, in lieu of the rate or rates provided by this subsection or subsection (b), not less than the applicable rate established by the Secretary of Labor in accordance with recommendations of a special industry committee or committees which he shall appoint in the same manner and pursuant to the same provisions as are applicable to the special industry committees provided for Puerto Rico and the Virgin Islands by this Act as amended from time to time."

(b) Subsection (b) of section 6 of such Act is amended to read as follows:

52 Stat. 1062.

"(b) Every employer shall pay to each of his employees who in any workweek (i) is employed in an enterprise engaged in commerce or in the production of goods for commerce, as defined in section 3(s) (1), (2), or (4) or by an establishment described in section 3(s) (3) or (5), and who, except for the enactment of the Fair Labor Standards Amendments of 1961, would not be within the purview of this section, or (ii) is brought within the purview of this section by the amendments made to section 13(a) of this Act by the Fair Labor Standards Amendments of 1961, wages at rates—

Ante, p. 66.

"(1) not less than \$1 an hour during the first three years from the effective date of such amendments; not less than \$1.15 an hour during the fourth year from such date; and not less than the rate effective under paragraph (1) of subsection (a) thereafter;

Post, p. 71.

"(2) if such employee is employed as a seaman on an American vessel, not less than the rate which will provide to the employee, for the period covered by the wage payment, wages equal to compensation at the hourly rate prescribed by paragraph (1) of this subsection for all hours during such period when he was actually on duty (including periods aboard ship when the employee was on watch or was, at the direction of a superior officer, performing work or standing by, but not including off-duty periods which are provided pursuant to the employment agreement)."

(c) Subsection (c) of section 6 of such Act is amended to read as follows:

63 Stat. 912.

"(c) The rate or rates provided by subsections (a) and (b) of this section shall be superseded in the case of any employee in Puerto Rico or the Virgin Islands only for so long as and insofar as such employee is covered by a wage order heretofore or hereafter issued by the

63 Stat. 911.  
29 USC 205.

Secretary pursuant to the recommendations of a special industry committee appointed pursuant to section 5: *Provided*, That (1) the following rates shall apply to any such employee to whom the rate or rates prescribed by subsection (a) would otherwise apply:

“(A) The rate or rates applicable under the most recent wage order issued by the Secretary prior to the effective date of the Fair Labor Standards Amendments of 1961, increased by 15 per centum, unless such rate or rates are superseded by the rate or rates prescribed in a wage order issued by the Secretary pursuant to the recommendations of a review committee appointed under paragraph (C). Such rate or rates shall become effective sixty days after the effective date of the Fair Labor Standards Amendments of 1961 or one year from the effective date of the most recent wage order applicable to such employee theretofore issued by the Secretary pursuant to the recommendations of a special industry committee appointed under section 5, whichever is later.

“(B) Beginning two years after the applicable effective date under paragraph (A), not less than the rate or rates prescribed by paragraph (A), increased by an amount equal to 10 per centum of the rate or rates applicable under the most recent wage order issued by the Secretary prior to the effective date of the Fair Labor Standards Amendments of 1961, unless such rate or rates are superseded by the rate or rates prescribed in a wage order issued by the Secretary pursuant to the recommendations of a review committee appointed under paragraph (C).

“(C) Any employer, or group of employers, employing a majority of the employees in an industry in Puerto Rico or the Virgin Islands, may apply to the Secretary in writing for the appointment of a review committee to recommend the minimum rate or rates to be paid such employees in lieu of the rate or rates provided by paragraph (A) or (B). Any such application with respect to any rate or rates provided for under paragraph (A) shall be filed within sixty days following the enactment of the Fair Labor Standards Amendments of 1961 and any such application with respect to any rate or rates provided for under paragraph (B) shall be filed not more than one hundred and twenty days and not less than sixty days prior to the effective date of the applicable rate or rates under paragraph (B). The Secretary shall promptly consider such application and may appoint a review committee if he has reasonable cause to believe, on the basis of financial and other information contained in the application, that compliance with any applicable rate or rates prescribed by paragraph (A) or (B) will substantially curtail employment in such industry. The Secretary's decision upon any such application shall be final. Any wage order issued pursuant to the recommendations of a review committee appointed under this paragraph shall take effect on the applicable effective date provided in paragraph (A) or (B).

“(D) In the event a wage order has not been issued pursuant to the recommendation of a review committee prior to the applicable effective date under paragraph (A) or (B), the applicable percentage increase provided by any such paragraph shall take effect on the effective date prescribed therein, except with respect to the employees of an employer who filed an application under paragraph (C) and who files with the Secretary an undertaking with a surety or sureties satisfactory to the Secretary for payment to his employees of an amount sufficient to compensate such employees for the difference between the wages they actually receive and the wages to which they are entitled under this subsection. The Secretary shall be empowered to enforce

such undertaking and any sums recovered by him shall be held in a special deposit account and shall be paid, on order of the Secretary, directly to the employee or employees affected. Any such sum not paid to an employee because of inability to do so within a period of three years shall be covered into the Treasury of the United States as miscellaneous receipts.

“(2) In the case of any such employee to whom subsection (b) would otherwise apply, the Secretary shall within sixty days after the enactment of the Fair Labor Standards Amendments of 1961 appoint a special industry committee in accordance with section 5 to recommend the highest minimum wage rate or rates in accordance with the standards prescribed by section 8, not in excess of the applicable rate provided by subsection (b), to be applicable to such employee in lieu of the rate or rates prescribed by subsection (b). The rate or rates recommended by the special industry committee shall be effective with respect to such employee upon the effective date of the wage order issued pursuant to such recommendation but not before sixty days after the effective date of the Fair Labor Standards Amendments of 1961.

63 Stat. 911.  
29 USC 205.

29 USC 208.

“(3) The provisions of section 5 and section 8, relating to special industry committees, shall be applicable to review committees appointed under this subsection. The appointment of a review committee shall be in addition to and not in lieu of any special industry committee required to be appointed pursuant to the provisions of subsection (a) of section 8, except that no special industry committee shall hold any hearing within one year after a minimum wage rate or rates for such industry shall have been recommended to the Secretary by a review committee to be paid in lieu of the rate or rates provided for under paragraph (A) or (B). The minimum wage rate or rates prescribed by this subsection shall be in effect only for so long as and insofar as such minimum wage rate or rates have not been superseded by a wage order fixing a higher minimum wage rate or rates (but not in excess of the applicable rate prescribed in subsection (a) or subsection (b)) hereafter issued by the Secretary pursuant to the recommendation of a special industry committee.”

#### MAXIMUM HOURS

SEC. 6. (a) Subsection (a) of section 7 of such Act is amended by designating such subsection as subsection (a)(1), by inserting after the word “who” the words “in any workweek”, and by striking out the period at the end thereof and inserting a semicolon and the word “and” in lieu thereof and adding the following new paragraph (2):

29 USC 207.

“(2) No employer shall employ any of his employees who in any workweek (i) is employed in an enterprise engaged in commerce or in the production of goods for commerce, as defined in section 3(s) (1) or (4), or by an establishment described in section 3(s) (3), and who, except for the enactment of the Fair Labor Standards Amendments of 1961, would not be within the purview of this subsection, or (ii) is brought within the purview of this subsection by the amendments made to section 13 of this Act by the Fair Labor Standards Amendments of 1961—

“(A) for a workweek longer than forty-four hours during the third year from the effective date of the Fair Labor Standards Amendments of 1961,

“(B) for a workweek longer than forty-two hours during the fourth year from such date,

Post, p. 71.

“(C) for a workweek longer than forty hours after the expiration of the fourth year from such date, unless such employee receives compensation for his employment in excess of the hours above specified at a rate not less than one and one-half times the regular rate at which he is employed.”

63 Stat. 913.  
29 USC 207.

(b) Subsection (b) of section 7 of such Act is amended by striking out “in excess of forty hours in the workweek” in paragraph (2) and inserting in lieu thereof the following: “in excess of the maximum workweek applicable to such employee under subsection (a)”.

(c) Paragraph (5) of subsection (d) of section 7 of such Act is amended by striking out “forty in a workweek” and inserting in lieu thereof the following: “in excess of the maximum workweek applicable to such employee under subsection (a)”.

(d) Paragraph (7) of subsection (d) of section 7 of such Act is amended by striking out “forty hours” and inserting in lieu thereof the following: “the maximum workweek applicable to such employee under subsection (a)”.

(e) Subsection (e) of section 7 of such Act is amended (1) by striking out “forty hours” and inserting in lieu thereof “the maximum workweek applicable to such employee under subsection (a)”, (2) by striking out “section 6(a)” and inserting in lieu thereof “subsection (a) or (b) of section 6 (whichever may be applicable)”, and (3) by striking out “forty in any” and inserting in lieu thereof “such maximum”.

(f) Subsection (f) of section 7 of such Act is amended by striking out “forty hours” both times it appears therein and inserting in lieu thereof the following: “the maximum workweek applicable to such employee under such subsection”.

(g) Section 7 of such Act is amended by adding at the end thereof the following new subsection:

“(h) No employer shall be deemed to have violated subsection (a) by employing any employee of a retail or service establishment for a workweek in excess of the applicable workweek specified therein, if (1) the regular rate of pay of such employee is in excess of one and one-half times the minimum hourly rate applicable to him under section 6, and (2) more than half his compensation for a representative period (not less than one month) represents commissions on goods or services.”

52 Stat. 1062.  
29 USC 206.

#### WAGE ORDERS IN PUERTO RICO AND THE VIRGIN ISLANDS

63 Stat. 915.  
29 USC 208.

SEC. 7. Subsection (a) of section 8 of such Act is amended by inserting after the word “industries” where it appears in the first sentence the words “or enterprises”; and by inserting after the words “production of goods for commerce” where they appear in the second sentence the following: “or in any enterprise engaged in commerce or in the production of goods for commerce”.

#### CHILD LABOR PROVISIONS

29 USC 212.

SEC. 8. Subsection (c) of section 12 of such Act is amended by striking out the period at the end thereof and inserting in lieu thereof the following: “or in any enterprise engaged in commerce or in the production of goods for commerce.”

## EXEMPTIONS

SEC. 9. Subsections (a) and (b) of section 13 of such Act are amended to read as follows:

63 Stat. 917.  
29 USC 213.

“(a) The provisions of sections 6 and 7 shall not apply with respect to—

5 2 Stat. 1062;  
63 Stat. 912.  
29 USC 206, 207.

“(1) any employee employed in a bona fide executive, administrative, or professional capacity, or in the capacity of outside salesman (as such terms are defined and delimited from time to time by regulations of the Secretary, subject to the provisions of the Administrative Procedure Act, except than an employee of a retail or service establishment shall not be excluded from the definition of employee employed in a bona fide executive or administrative capacity because of the number of hours in his workweek which he devotes to activities not directly or closely related to the performance of executive or administrative activities, if less than 40 per centum of his hours worked in the workweek are devoted to such activities); or

60 Stat. 237.  
5 U S C 1001  
note.

“(2) any employee employed by any retail or service establishment, more than 50 per centum of which establishment's annual dollar volume of sales of goods or services is made within the State in which the establishment is located, if such establishment—

“(i) is not in an enterprise described in section 3(s), or

Ante, p. 66.

“(ii) is in such an enterprise and is a hotel, motel, restaurant, or motion picture theater; or is an amusement or recreational establishment that operates on a seasonal basis, or

“(iii) is in such an enterprise and is a hospital, or an institution which is primarily engaged in the care of the sick, the aged, the mentally ill or defective, residing on the premises of such institution, or a school for physically or mentally handicapped or gifted children, or

“(iv) is in such an enterprise and has an annual dollar volume of sales (exclusive of excise taxes at the retail level which are separately stated) which is less than \$250,000.

A ‘retail or service establishment’ shall mean an establishment 75 per centum of whose annual dollar volume of sales of goods or services (or of both) is not for resale and is recognized as retail sales or services in the particular industry; or

“(3) any employee employed by any establishment engaged in laundering, cleaning, or repairing clothing or fabrics, more than 50 per centum of which establishment's annual dollar volume of sales of such services is made within the State in which the establishment is located: *Provided*, That 75 per centum of such establishment's annual dollar volume of sales of such services is made to customers who are not engaged in a mining, manufacturing, transportation, or communications business; or

“(4) any employee employed by an establishment which qualifies as an exempt retail establishment under clause (2) of this subsection and is recognized as a retail establishment in the particular industry notwithstanding that such establishment makes or processes at the retail establishment the goods that it sells: *Provided*, That more than 85 per centum of such establishment's annual dollar volume of sales of goods so made or processed is made within the State in which the establishment is located; or

“(5) any employee employed in the catching, taking, propagating, harvesting, cultivating, or farming of any kind of fish, shellfish, crustacea, sponges, seaweeds, or other aquatic forms of

animal and vegetable life, or in the first processing, canning or packing such marine products at sea as an incident to, or in conjunction with, such fishing operations, including the going to and returning from work and loading and unloading when performed by any such employee; or

“(6) any employee employed in agriculture or in connection with the operation or maintenance of ditches, canals, reservoirs, or waterways, not owned or operated for profit, or operated on a share-crop basis, and which are used exclusively for supply and storing of water for agricultural purposes; or

“(7) any employee to the extent that such employee is exempted by regulations or orders of the Secretary issued under section 14; or

“(8) any employee employed in connection with the publication of any weekly, semiweekly, or daily newspaper with a circulation of less than four thousand the major part of which circulation is within the county where printed and published or counties contiguous thereto; or

“(9) any employee of a street, suburban or interurban electric railway, or local trolley or motor bus carrier, not in an enterprise described in section 3(s) (2); or

“(10) any individual employed within the area of production (as defined by the Secretary), engaged in handling, packing, storing, compressing, pasteurizing, drying, preparing in their raw or natural state, or canning of agricultural or horticultural commodities for market, or in making cheese or butter or other dairy products; or

“(11) any switchboard operator employed by an independently owned public telephone company which has not more than seven hundred and fifty stations; or

“(12) any employee of an employer engaged in the business of operating taxicabs; or

“(13) any employee or proprietor in a retail or service establishment which qualifies as an exempt retail or service establishment under clause (2) of this subsection with respect to whom the provisions of sections 6 and 7 would not otherwise apply, engaged in handling telegraphic messages for the public under an agency or contract arrangement with a telegraph company where the telegraph message revenue of such agency does not exceed \$500 a month; or

“(14) any employee employed as a seaman on a vessel other than an American vessel; or

“(15) any employee employed in planting or tending trees, cruising, surveying, or felling timber, or in preparing or transporting logs or other forestry products to the mill, processing plant, railroad, or other transportation terminal, if the number of employees employed by his employer in such forestry or lumbering operations does not exceed twelve; or

“(16) any employee with respect to his employment in agriculture by a farmer, notwithstanding other employment of such employee in connection with livestock auction operations in which such farmer is engaged as an adjunct to the raising of livestock, either on his own account or in conjunction with other farmers, if such employee (A) is primarily employed during his workweek in agriculture by such farmer, and (B) is paid for his employment in connection with such livestock auction operations at a wage rate not less than that prescribed by section 6(a) (1); or

52 Stat. 1068.  
29 USC 214.

Ante, p. 66.

52 Stat. 1062;  
63 Stat. 912.  
29 USC 206, 207.

Ante, p. 67.

“(17) any employee employed within the area of production (as defined by the Secretary) by an establishment commonly recognized as a country elevator, including such an establishment which sells products and services used in the operation of a farm: *Provided*, That no more than five employees are employed in the establishment in such operations; or

“(18) any employee engaged in ginning of cotton for market, in any place of employment located in a county where cotton is grown in commercial quantities; or

“(19) any employee of a retail or service establishment which is primarily engaged in the business of selling automobiles, trucks, or farm implements; or

“(20) any employee of a retail or service establishment who is employed primarily in connection with the preparation or offering of food or beverages for human consumption, either on the premises, or by such services as catering, banquet, box lunch, or curb or counter service, to the public, to employees, or to members or guests of members of clubs; or

“(21) any agricultural employee employed in the growing and harvesting of shade-grown tobacco who is engaged in the processing (including, but not limited to, drying, curing, fermenting, bulking, rebulking, sorting, grading, aging, and baling) of such tobacco, prior to the stemming process, for use as cigar wrapper tobacco; or

“(22) any employee engaged (A) in the transportation and preparation for transportation of fruits or vegetables, whether or not performed by the farmer, from the farm to a place of first processing or first marketing within the same State, or (B) in transportation, whether or not performed by the farmer, between the farm and any point within the same State of persons employed or to be employed in the harvesting of fruits or vegetables.

“(b) The provisions of section 7 shall not apply with respect to—

“(1) any employee with respect to whom the Interstate Commerce Commission has power to establish qualifications and maximum hours of service pursuant to the provisions of section 204 of the Motor Carrier Act, 1935; or

“(2) any employee of an employer subject to the provisions of part I of the Interstate Commerce Act; or

“(3) any employee of a carrier by air subject to the provisions of title II of the Railway Labor Act; or

“(4) any employee employed in the canning, processing, marketing, freezing, curing, storing, packing for shipment, or distributing of any kind of fish, shellfish, or other aquatic forms of animal or vegetable life, or any byproduct thereof; or

“(5) any individual employed as an outside buyer of poultry, eggs, cream, or milk, in their raw or natural state; or

“(6) any employee employed as a seaman; or

“(7) any employee of a street, suburban or interurban electric railway, or local trolley or motorbus carrier; or

“(8) any employee of a gasoline service station; or

“(9) any employee employed as an announcer, news editor, or chief engineer by a radio or television station the major studio of which is located (A) in a city or town of one hundred thousand population or less, according to the latest available decennial census figures as compiled by the Bureau of the Census, except where such city or town is part of a standard metropolitan statistical area, as defined and designated by the Bureau of the Budget, which has a total population in excess of one hundred thousand,

63 Stat. 912.  
29 USC 207.

49 Stat. 546.  
49 USC 304.

24 Stat. 379.  
49 USC 1 *et seq.*

49 Stat. 1189.  
45 USC 181-188.

or (B) in a city or town of twenty-five thousand population or less, which is part of such an area but is at least 40 airline miles from the principal city in such area; or

“(10) any employee of an independently owned and controlled local enterprise (including an enterprise with more than one bulk storage establishment) engaged in the wholesale or bulk distribution of petroleum products if (A) the annual gross volume of sales of such enterprise is not more than \$1,000,000 exclusive of excise taxes, and (B) more than 75 per centum of such enterprise’s annual dollar volume of sales is made within the State in which such enterprise is located, and (C) not more than 25 per centum of the annual dollar volume of sales of such enterprise is to customers who are engaged in the bulk distribution of such products for resale; or

“(11) any employee employed as a driver or driver’s helper making local deliveries, who is compensated for such employment on the basis of trip rates, or other delivery payment plan, if the Secretary shall find that such plan has the general purpose and effect of reducing hours worked by such employees to, or below, the maximum workweek applicable to them under section 7(a).”

SEC. 10. That section 13(d) of such Act, as amended, is amended by inserting before the period at the end thereof the following: “or to any homemaker engaged in the making of wreaths composed principally of natural holly, pine, cedar, or other evergreens (including the harvesting of the evergreens or other forest products used in making such wreaths)”.

#### EMPLOYMENT OF STUDENTS

SEC. 11. Clause (1) of section 14 of such Act is amended by striking out “and” after “apprentices,” and by inserting after “messages,” the following: “and of full-time students outside of their school hours in any retail or service establishment: *Provided*, That such employment is not of the type ordinarily given to a full-time employee.”

#### PENALTIES AND INJUNCTION PROCEEDINGS

SEC. 12. (a) Section 16(b) of such Act is amended by adding at the end thereof a new sentence as follows: “The right provided by this subsection to bring an action by or on behalf of any employee, and the right of any employee to become a party plaintiff to any such action, shall terminate upon the filing of a complaint by the Secretary of Labor in an action under section 17 in which restraint is sought of any further delay in the payment of unpaid minimum wages, or the amount of unpaid overtime compensation, as the case may be, owing to such employee under section 6 or section 7 of this Act by an employer liable therefor under the provisions of this subsection.”

(b) Section 17 of such Act is amended to read as follows:

#### “INJUNCTION PROCEEDINGS

“SEC. 17. The district courts, together with the United States District Court for the District of the Canal Zone, the District Court of the Virgin Islands, and the District Court of Guam shall have jurisdiction, for cause shown, to restrain violations of section 15, including in the case of violations of section 15(a)(2) the restraint of any withholding of payment of minimum wages or overtime compensation

53 Stat. 912.  
29 USC 207.  
29 USC 213.

52 Stat. 1068.  
29 USC 214.

29 USC 216.

53 Stat. 919.  
29 USC 217.

29 USC 206, 207.

52 Stat. 1068.  
29 USC 215.

found by the court to be due to employees under this Act (except sums which employees are barred from recovering, at the time of the commencement of the action to restrain the violations, by virtue of the provisions of section 6 of the Portal-to-Portal Act of 1947)."

61 Stat. 87.  
29 USC 255.

STUDY OF AGRICULTURAL HANDLING AND PROCESSING EXEMPTIONS AND RATES OF PAY IN HOTELS, MOTELS, RESTAURANTS, AND OTHER FOOD SERVICE ENTERPRISES

SEC. 13. The Secretary of Labor shall study the complicated system of exemptions now available for the handling and processing of agricultural products under such Act and particularly sections 7(b) (3), 7(c), and 13(a) (10), and the complex problems involving rates of pay of employees in hotels, motels, restaurants, and other food service enterprises who are exempted from the provisions of this Act, and shall submit to the second session of the Eighty-seventh Congress at the time of his report under section 4(d) of such Act a special report containing the results of such study and information, data and recommendations for further legislation designed to simplify and remove the inequities in the application of such exemptions.

Report to Congress.

63 Stat. 912.  
Ante, p. 71.  
29 USC 207, 213.

52 Stat. 1062.  
29 USC 204.

EFFECTIVE DATE

SEC. 14. The amendments made by this Act shall take effect upon the expiration of one hundred and twenty days after the date of its enactment, except as otherwise provided in such amendments and except that the authority to promulgate necessary rules, regulations, or orders with regard to amendments made by this Act, under the Fair Labor Standards Act of 1938 and amendments thereto, including amendments made by this Act, may be exercised by the Secretary on and after the date of enactment of this Act.

52 Stat. 1060.  
29 USC 201.

Approved May 5, 1961.

Public Law 87-31

AN ACT

To amend title IV of the Social Security Act to authorize Federal financial participation in aid to dependent children of unemployed parents, and for other purposes.

May 8, 1961  
[H. R. 4884]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That title IV of the Social Security Act is amended by adding at the end thereof the following new section:

Social Security.  
Aid to dependent children.  
49 Stat. 627.  
42 USC 601-606.

"DEPENDENT CHILDREN OF UNEMPLOYED PARENTS

"SEC. 407. Effective for the period beginning May 1, 1961, and ending with the close of June 30, 1962, the term 'dependent child' shall, notwithstanding section 406(a), include a needy child under the age of eighteen who has been deprived of parental support or care by reason of the unemployment (as defined by the State) of a parent and who is living with any of the relatives specified in section 406(a) in a place of residence maintained by one or more of such relatives as his (or their) own home, but only with respect to a State whose State plan approved under section 402—

42 USC 606.

42 USC 602.