

105TH CONGRESS
1ST SESSION

H. R. 1870

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

IN THE HOUSE OF REPRESENTATIVES

JUNE 12, 1997

Mr. LANTOS (for himself, Mr. CAMPBELL, Mr. ACKERMAN, Mr. BONIOR, Mr. BROWN of California, Ms. CARSON, Mr. DAVIS of Illinois, Mr. DELLUMS, Ms. ESHOO, Mr. EVANS, Mr. FALEOMAVAEGA, Mr. FOGLIETTA, Mr. FRANK of Massachusetts, Mr. FROST, Mr. GONZALEZ, Mr. GUTIERREZ, Mr. HINCHEY, Mr. JEFFERSON, Mr. MANTON, Mr. MILLER of California, Ms. NORTON, Mr. OBERSTAR, Mr. OLVER, Mr. OWENS, Mr. RANGEL, Mr. SANDERS, Mr. SCHUMER, Mr. TIERNEY, Mr. TORRES, Mr. VENTO, Ms. WOOLSEY, Ms. VELÁZQUEZ, and Mr. YATES) introduced the following bill; which was referred to the Committee on Education and Workforce

A BILL

To amend the Fair Labor Standards Act of 1938 to reform 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: REFERENCE.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Young American Workers’ Bill of Rights”.

1 (b) REFERENCE.—Whenever in this Act an amend-
2 ment or repeal is expressed in terms of an amendment
3 to, or repeal of, a section or other provision, the reference
4 shall be considered to be made to a section or other provi-
5 sion of the Fair Labor Standards Act of 1938.

6 **SEC. 2. REPORTING AND RECORDKEEPING.**

7 (a) CHILD-LABOR LAWS.—Section 12 (29 U.S.C.
8 212) is amended by adding at the end the following new
9 subsection:

10 “(e)(1) The Secretary and the United States Census
11 Bureau shall compile data from respective State employ-
12 ment security agencies in all the States (A) on the types
13 of industries and occupations in which children under the
14 age of 18 are employed and on the types of industries and
15 occupations in which children who are 18 and full-time
16 students in a high school are employed, and (B) on cases
17 in which it was determined that minors were employed in
18 violation of this section. The first such compilation shall
19 be completed not later than 2 years after the date of en-
20 actment of the Young American Workers’ Bill of Rights
21 and each subsequent compilation shall be completed not
22 later than 3 years thereafter.

23 “(2) If a minor in the course of employment suffers
24 death or an injury or illness resulting in lost work time
25 of at least 1 working day, not later than 5 days after the

1 death, injury, or illness, the employer of the minor shall
2 provide to the State agency a written description of the
3 death, injury, or illness.

4 “(3) The Secretary of Health and Human Services,
5 in conjunction with the Secretary of Labor, shall issue an
6 annual report on the status of child labor in the United
7 States and its attendant safety and health hazards.”.

8 **SEC. 3. CERTIFICATES OF EMPLOYMENT.**

9 Section 12 (29 U.S.C. 212) is amended by adding
10 at the end the following new subsection:

11 “(e)(1) As used in this subsection, the term ‘parents’
12 means the biological parents of a minor or other individual
13 standing in loco parentis to a minor and the term ‘minor’
14 means an individual who is under the age of 18 and who
15 has not received a high school diploma or its equivalent
16 or who is 18 and enrolled full-time in a high school.

17 “(2) No employer shall employ a minor unless the
18 minor possesses a valid certificate of employment issued
19 in accordance with this subsection.

20 “(3) The Governor of a State shall designate a State
21 agency to issue certificates of employment to minors in
22 the State. The agency shall make available, on request,
23 a form for the application described in paragraph (4) and
24 shall make available, as part of the certification process,
25 materials describing applicable Federal requirements gov-

1 earning the employment of minors and the minor's rights
2 under such requirements.

3 “(4) To be eligible to receive a certificate of employ-
4 ment, a minor must submit to the appropriate State agen-
5 cy an application that contains—

6 “(A) the name and address of the minor;

7 “(B) proof of age of the minor;

8 “(C) if the minor is under the age of 18 or is
9 age 18 and enrolled full-time in a high school—

10 “(i) a written statement by the parents or
11 legal guardian of the minor that the parents
12 grant consent for employment of the minor; and

13 “(ii) a written verification from the mi-
14 nor's school that the minor is meeting at least
15 the minimum school attendance requirements
16 established by the State and that such employ-
17 ment will not interfere with the schooling of the
18 minor; and

19 “(D) the employer's name, address, signature;
20 and

21 “(E) with respect to the employment—

22 “(i) a statement on the nature of the work
23 to be performed;

24 “(ii) the daily and weekly hours, and

1 “(iii) the times of day in which the work
2 is to be performed.

3 “(5) On receipt of an application under paragraph
4 (4), a State agency shall issue to the minor—

5 “(A) a certificate of employment, if the require-
6 ments of paragraph (4) are met; or

7 “(B) a statement of the denial of a certificate
8 of employment (including the reasons for the denial),
9 if the requirements of paragraph (4) are not met.

10 “(6) A certificate of employment issued to a minor
11 under this subsection shall be valid for 1 year after the
12 date of issuance of the certificate or for the duration of
13 the permitted employment, whichever is shorter.

14 “(7) A certificate of employment issued to a minor
15 under this subsection shall indicate—

16 “(A) the name, address, and date of birth of
17 the minor;

18 “(B) a minor will not be employed more than
19 3 hours per day or more than 15 hours per week
20 and shall be prohibited from working before 7 a.m.
21 and after 7 p.m. when school is in session if such
22 minor is between 14 and 16 years of age and will
23 not be employed more than 4 hours per school day
24 or more than 20 hours per week and shall be prohib-
25 ited from working before 6 a.m. and after 10 p.m.

1 when school is in session if such minor is 16, 17, or
2 18 years of age and a full-time student enrolled in
3 a high school; and

4 “(C) the name, address, and telephone number
5 of the State agency that may be contacted for addi-
6 tional information concerning applicable Federal re-
7 quirements governing the employment of minors.

8 “(8) The State agency shall provide a copy of a cer-
9 tificate of employment issued to a minor who is not older
10 than the age of 18 to the parent of the minor who granted
11 consent pursuant to paragraph (4) and to the local school
12 district where the minor is enrolled.

13 “(9) If an employer employs a minor, not later than
14 14 days after the date of the commencement of employ-
15 ment of the minor, the employer shall provide to the State
16 agency written notice of the name and occupation of the
17 minor and the number of the certificate of employment
18 issued to the minor.

19 “(10) Each employer shall post a copy of the provi-
20 sions of this Act relating to child labor at each premise
21 of a worksite where one or more minors is employed.

22 “(11) A State agency shall report annually to the
23 Secretary concerning certificates of employment issued
24 under this subsection. The agency shall include such infor-
25 mation as the Secretary requires (including information

1 on the number of deaths and injuries of minors reported
2 pursuant to subsection (f)).”.

3 **SEC. 4. REVISIONS OF ORDERS AND REGULATIONS.**

4 (a) ORDERS.—

5 (1) In the administration of the Fair Labor
6 Standards Act of 1938, the Secretary of Labor shall
7 make the following revisions in the Secretary’s child
8 labor orders published in subpart E of part 570 of
9 title 29, Code of Federal Regulations:

10 (A) The exemption provided in Order No.
11 2 (29 C.F.R. 570.52) shall apply to minors who
12 are at least 18 years of age and to driving that
13 is secondary and incidental to the minor’s main
14 occupation. Such exemption would be limited to
15 20 percent of the minor’s work in any workday
16 and may not exceed 5 percent of the minor’s
17 work in any workweek.

18 (B) Order No. 10 (29 C.F.R. 570.61) shall
19 apply with respect to restaurants and fast food
20 establishments. Such order shall prohibit mi-
21 nors who are under the age of 18 or who are
22 18 and are enrolled full-time in a high school
23 from cleaning any machinery irrespective of
24 who has disassembled the machinery.

11 (1) individuals under 16 shall be prohibited
12 from making door-to-door sales for profit,

(2) individuals under 16 shall be prohibited from using fryers, baking equipment, and cooking equipment in food service establishments, and

(3) strike out in section 570.34(b)(5) “(except at soda fountains, lunch counters, snack bars, or cafeteria serving counters)”.

19 SEC. 5. CRIMINAL PENALTIES FOR CHILD LABOR VIOLA-
20 TIONS.

(a) WILLFUL VIOLATIONS THAT CAUSE INJURY OR DEATH.—Section 16 (29 U.S.C. 216) is amended by adding at the end the following new subsection:

24 “(f) Any person who willfully violates the provisions
25 of section 12, relating to child labor, or any regulation

1 issued under such section, shall, on conviction be pun-
2 ished—

3 “(1) in the case of a willful violation that
4 causes serious bodily injury to an employee described
5 in section 3(l) but does not cause death to the em-
6 ployee, by a fine in accordance with section 3571 of
7 title 18, United States Code, or by imprisonment for
8 not more than 5 years, or by both, except that if the
9 conviction is for a willful violation committed after
10 a first conviction of the person, the person shall be
11 punished by a fine in accordance with section 3571
12 of such title 18 or by imprisonment for not more
13 than 10 years, or by both; or

14 “(2) in the case of a willful violation that
15 causes death to an employee described in section
16 3(l), by a fine in accordance with section 3571 of
17 such title 18 or by imprisonment for not more than
18 10 years, or by both, except that if the conviction is
19 for a willful violation committed after a first convic-
20 tion of the person, the person shall be punished by
21 a fine in accordance with section 3571 of such title
22 18 or by imprisonment for not more than 20 years,
23 or by both.”.

24 (b) NO PRIOR OFFENSE PREREQUISITE FOR CHILD
25 LABOR VIOLATION.—The second sentence of section 16(a)

1 is amended by inserting before the period at the end the
2 following: “, except that this sentence shall not apply to
3 a violation of section 12”.

4 **SEC. 6. CIVIL PENALTIES FOR CHILD LABOR VIOLATIONS.**

5 Section 16(e) (29 U.S.C. 216(e)) is amended—

6 (1) by redesignating paragraphs (1), (2), and
7 (3) as subparagraphs (A), (B), and (C), respectively;

8 (2) by inserting “(1)” after the subsection des-
9 ignation;

10 (3) by adding at the end the following new
11 paragraphs:

12 “(2) Any person who willfully violates the provisions
13 of section 12, relating to child labor, or any regulation
14 issued under such section, on more than one occasion,
15 shall, on such additional violation, be ineligible—

16 “(A) for any grant, contract, or loan provided
17 by an agency of the United States or by appro-
18 priated funds of the United States, for 5 years after
19 the date of such additional violation;

20 “(B) to pay the training wage authorized by
21 section 6 of the Fair Labor Standards Amendments
22 of 1989 (29 U.S.C. 206 note); or

23 “(C) to employ a minor for a period of 5 years
24 from the date of such violation.”.

1 **SEC. 7. CIVIL ACTIONS FOR CHILD LABOR VIOLATIONS.**

2 Section 16 (29 U.S.C. 216), as amended by section
3 4, is amended by adding at the end the following:

4 “(g) Any employer who violates section 12 shall be
5 liable for such legal or equitable relief as may be appro-
6 priate. An action to recover such relief may be brought
7 against any employer in any Federal or State court of
8 competent jurisdiction by any employee subject to the pro-
9 tections of section 12 or by the employee’s survivors. The
10 court in such an action shall, in addition to any other
11 judgment awarded to the plaintiff, allow a reasonable at-
12 torney’s fee to be paid by the defendant and costs of the
13 action. If the employee or the employee’s survivors obtain
14 a judgment under this subsection and also seek recovery
15 for the same violation through State worker’s compensa-
16 tion, this subsection does not preclude a State from choos-
17 ing to offset recovery obtained under this subsection
18 against recovery provided through State worker’s com-
19 pensation.”.

20 **SEC. 8. COORDINATION.**

21 (a) IN GENERAL.—The Secretary of Labor shall es-
22 tablish and encourage closer working relationships among
23 Federal and State agencies having responsibility for en-
24 forcing labor, safety and health, and immigration laws.

25 (b) REFERRALS.—

1 (1) The Secretary of Labor shall establish a re-
2 ferral system under which employees engaged in the
3 enforcement of the Fair Labor Standards Act of
4 1938 and the Occupational Safety and Health Act
5 of 1970 shall—

6 (A) exchange information about suspected
7 violators of the Acts and monitor the results of
8 referrals to each other, and

9 (B) provide basic training to each other's
10 staffs concerning the requirements of such Acts.

11 (2) The Secretary of Labor shall require em-
12 ployees engaged in the enforcement of the Fair
13 Labor Standards Act of 1938 and the Occupational
14 Safety and Health Act of 1970 to establish a
15 referral system with—

16 (A) employees of the Immigration and
17 Naturalization Service engaged in the enforce-
18 ment of the Immigration and Nationality Act,
19 and

20 (B) employees of Departments of Labor of
21 the States engaged in the enforcement of State
22 minimum wage and occupational safety and
23 health laws.

24 The Immigration and Naturalization Service and the
25 State Departments of Labor shall each be encour-

1 aged by the Secretary of Labor to establish informa-
2 tion exchanges and, to the extent practicable, pro-
3 vided training to each other's staffs concerning the
4 requirements of the Acts enforced by the respective
5 agencies.

6 (c) ADVICE FROM PRIVATE AND PUBLIC SECTORS.—
7 The Secretary shall seek information and advice from rep-
8 resentative elements of the private sector and the non-
9 Federal governmental sector with respect to the provisions
10 of the Fair Labor Standards Act of 1938 and correspond-
11 ing regulations as they pertain to the employment of
12 minors.

13 (d) ADVISORY COMMITTEE.—The Secretary shall es-
14 tablish an Advisory Committee for Child Labor to provide
15 overall policy advice on matters referred to in subsection
16 (c). The Committee shall be composed of not less than
17 21 individuals, and shall include representatives of govern-
18 ment, labor, industry, education, agriculture, health pro-
19 fessions, small business, youth, service industries, retail-
20 ers, consumer interests, human rights, child welfare, par-
21 ent groups, and the general public. The Committee shall
22 meet quarterly at the call of the Secretary or upon the
23 call of a majority of the Committee, a quorum being
24 present. The Chairperson of the Committee shall be elect-
25 ed by the Committee from among its members. Members

1 of the Committee shall be appointed by the President for
2 a period of 4 years and may be reappointed for one or
3 more additional periods. The Secretary shall make avail-
4 able to the Committee such staff, information, personnel,
5 and administrative services and assistance as it may rea-
6 sonably require to carry out its activities.

7 **SEC. 9. PUBLICATION OF VIOLATORS.**

8 (a) IN GENERAL.—The Secretary of Labor shall pub-
9 lish and disseminate the names and addresses of each per-
10 son who has willfully violated the provisions of section 12
11 of the Fair Labor Standards Act of 1938 relating to child
12 labor or any regulation under such section and the types
13 of violations committed by such person and shall distribute
14 the publication regionally.

15 (b) NOTICE TO SCHOOL DISTRICTS.—The Secretary
16 shall post and otherwise make available to affected school
17 districts the name of each employer who violates the provi-
18 sions of section 12 of the Fair Labor Standards Act of
19 1938, relating to child labor, or any regulation issued
20 under such section together with a description of the loca-
21 tion and nature of the violation.

22 **SEC. 10. COVERAGE.**

23 The provisions of sections 12 and 16(e) of the Fair
24 Labor Standards Act of 1938 shall apply to employers re-
25 gardless of the annual dollar volume of sales whereby cer-

tain enterprises are exempted from coverage under such Act.

SEC. 11. PROTECTION OF MINORS WHO ARE MIGRANT OR SEASONAL AGRICULTURAL WORKERS.

(a) DEFINITION OF OPPRESSIVE CHILD LABOR.—
The first sentence of section 3(l) (29 U.S.C. 203(l)) is amended—

(1) by striking “or” before “(2)”; and
(2) by inserting before the semicolon the following: “, or (3) any employee under the age of 14 years is employed by an employer as a migrant agricultural worker (as defined in section 3(8) of the Migrant and Seasonal Agricultural Protection Act (29 U.S.C. 1802(8)) or seasonal agricultural worker (as defined in section 3(10) of such Act)”.
The first sentence of section 3(l) (29 U.S.C. 203(l)) is amended—

(b) EXEMPTIONS.—Section 13 (29 U.S.C. 213) is amended—

(1) in subsection (a)(6), by inserting before the semicolon at the end the following: “, except that this paragraph shall not apply to an employee described in section 3(l)(3)”; and

(2) in subsection (c)—

(A) in paragraph (1), by striking “Except as provided in paragraph (2) or (4)” and in-

1 serting “Except as provided in paragraph (2),
2 (4), or (5)”; and

3 (B) by adding at the end the following new
4 paragraph:

5 “(5) The provisions of section 12 relating to child
6 labor shall apply to an employee described in section
7 3(1)(3).”.

8 **SEC. 12. REGULATIONS.**

9 The Secretary of Labor shall issue such regulations
10 as are necessary to carry out this Act and the amendments
11 made by this Act.

12 **SEC. 13. AUTHORIZATION.**

13 There is authorized to be appropriated to the Sec-
14 retary of Labor such sums as may be necessary for the
15 additional costs resulting from the amendments made by
16 sections 2 and 5.

○