

107TH CONGRESS
1ST SESSION

H. R. 961

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

IN THE HOUSE OF REPRESENTATIVES

MARCH 8, 2001

Mr. LANTOS (for himself, Mr. ACKERMAN, Mr. BARRETT of Wisconsin, Mr. BERMAN, Mr. BONIOR, Mr. BRADY of Pennsylvania, Mr. BROWN of Ohio, Ms. CARSON of Indiana, Mr. DELAHUNT, Ms. ESHOO, Mr. EVANS, Mr. FILNER, Mr. FRANK, Mr. FROST, Mr. GUTIERREZ, Mr. HASTINGS of Florida, Mr. HINCHEY, Mr. JACKSON of Illinois, Ms. KAPTUR, Ms. KILPATRICK, Mr. KUCINICH, Mr. LEWIS of Georgia, Mr. LIPINSKI, Mrs. LOWEY, Mrs. MALONEY of New York, Mr. MCGOVERN, Ms. MCKINNEY, Mr. MCNULTY, Mr. MATSUI, Mr. GEORGE MILLER of California, Mr. NEAL of Massachusetts, Ms. NORTON, Mr. OBERSTAR, Mr. OLVER, Mr. OWENS, Ms. PELOSI, Mr. PHELPS, Mr. RANGEL, Mr. RUSH, Mr. SANDERS, Ms. SCHAKOWSKY, Mr. SHERMAN, Mr. STARK, Mr. THOMPSON of Mississippi, Mr. TOWNS, Mr. UNDERWOOD, Ms. VELÁZQUEZ, Ms. WOOLSEY, and Mr. WYNN) 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 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,*

1 **SECTION 1. SHORT TITLE: REFERENCE.**

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

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

9 **SEC. 2. REPORTING AND RECORDKEEPING.**

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

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

1 “(2) If a minor in the course of employment suffers
2 death or an injury or illness resulting in lost work time
3 of at least 1 working day, not later than 5 days after the
4 death, injury, or illness, the employer of the minor shall
5 provide to the State agency a written description of the
6 death, injury, or illness.

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

11 **SEC. 3. CERTIFICATES OF EMPLOYMENT.**

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

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

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

23 “(3) The Governor of a State shall designate a State
24 agency to issue certificates of employment to minors in
25 the State. The agency shall make available, on request,

1 a form for the application described in paragraph (4) and
2 shall make available, as part of the certification process,
3 materials describing applicable Federal requirements gov-
4 erning the employment of minors and the minor’s rights
5 under such requirements.

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

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

10 “(B) proof of age of the minor;

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

13 “(i) a written statement by the parents or
14 legal guardian of the minor that the parents
15 grant consent for employment of the minor; and

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

22 “(D) the employer’s name, address, signature;

23 and

24 “(E) with respect to the employment—

1 “(i) a statement on the nature of the work
2 to be performed;

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

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

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

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

10 “(B) a statement of the denial of a certificate
11 of employment (including the reasons for the denial),
12 if the requirements of paragraph (4) are not met.

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

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

19 “(A) the name, address, and date of birth of
20 the minor;

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

1 not be employed more than 4 hours per school day
2 or more than 20 hours per week and shall be prohib-
3 ited from working before 6 a.m. and after 10 p.m.
4 when school is in session if such minor is 16, 17,
5 or 18 years of age and a full-time student enrolled
6 in a high school; and

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

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

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

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

1 “(11) A State agency shall report annually to the
2 Secretary concerning certificates of employment issued
3 under this subsection. The agency shall include such infor-
4 mation as the Secretary requires (including information
5 on the number of deaths and injuries of minors reported
6 pursuant to subsection (f)).”.

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

8 (a) ORDERS.—

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

14 (A) The exemption provided in Order No.
15 2 (29 C.F.R. 570.52) shall apply to minors who
16 are at least 18 years of age and to driving that
17 is secondary and incidental to the minor’s main
18 occupation. Such exemption would be limited to
19 20 percent of the minor’s work in any workday
20 and may not exceed 5 percent of the minor’s
21 work in any workweek.

22 (B) Order No. 10 (29 C.F.R. 570.61) shall
23 apply with respect to restaurants and fast food
24 establishments. Such order shall prohibit mi-
25 nors who are under the age of 18 or who are

1 18 and are enrolled full-time in a high school
2 from cleaning any machinery irrespective of
3 who has disassembled the machinery.

4 (2) In the administration of the Fair Labor
5 Standards Act of 1938, the Secretary of Labor shall
6 find and declare that poultry processing, seafood
7 processing, paper baling, power driven meat slicing,
8 and pesticide handling are occupations that are par-
9 ticularly hazardous for the employment of minors for
10 purposes of section 3(l) of the Fair Labor Standards
11 Act of 1938.

12 (b) CHILD LABOR REGULATIONS.—Under child labor
13 regulation No. 3 (subpart C of 29 C.F.R. 570 et seq.)—

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

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

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

1 **SEC. 5. CRIMINAL PENALTIES FOR CHILD LABOR VIOLA-**
2 **TIONS.**

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

6 “(f) Any person who willfully violates the provisions
7 of section 12, relating to child labor, or any regulation
8 issued under such section, shall, on conviction be
9 punished—

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

21 “(2) in the case of a willful violation that
22 causes death to an employee described in section
23 3(l), by a fine in accordance with section 3571 of
24 such title 18 or by imprisonment for not more than
25 10 years, or by both, except that if the conviction is
26 for a willful violation committed after a first convic-

1 tion of the person, the person shall be punished by
2 a fine in accordance with section 3571 of such title
3 18 or by imprisonment for not more than 20 years,
4 or by both.”.

5 (b) NO PRIOR OFFENSE PREREQUISITE FOR CHILD
6 LABOR VIOLATION.—The second sentence of section 16(a)
7 is amended by inserting before the period at the end the
8 following: “, except that this sentence shall not apply to
9 a violation of section 12”.

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

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

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

14 (2) by inserting “(1)” after the subsection des-
15 ignation;

16 (3) by adding at the end the following new
17 paragraphs:

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

22 “(A) for any grant, contract, or loan provided
23 by an agency of the United States or by appro-
24 priated funds of the United States, for 5 years after
25 the date of such additional violation;

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

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

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

7 Section 16 (29 U.S.C. 216), as amended by section
8 4, is amended by adding at the end the following:

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

1 **SEC. 8. COORDINATION.**

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

6 (b) REFERRALS.—

7 (1) The Secretary of Labor shall establish a re-
8 ferral system under which employees engaged in the
9 enforcement of the Fair Labor Standards Act of
10 1938 and the Occupational Safety and Health Act
11 of 1970 shall—

12 (A) exchange information about suspected
13 violators of the Acts and monitor the results of
14 referrals to each other, and

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

17 (2) The Secretary of Labor shall require em-
18 ployees engaged in the enforcement of the Fair
19 Labor Standards Act of 1938 and the Occupational
20 Safety and Health Act of 1970 to establish a
21 referral system with—

22 (A) employees of the Immigration and
23 Naturalization Service engaged in the enforce-
24 ment of the Immigration and Nationality Act,
25 and

1 (B) employees of Departments of Labor of
2 the States engaged in the enforcement of State
3 minimum wage and occupational safety and
4 health laws.

5 The Immigration and Naturalization Service and the
6 State Departments of Labor shall each be encour-
7 aged by the Secretary of Labor to establish informa-
8 tion exchanges and, to the extent practicable, pro-
9 vided training to each other's staffs concerning the
10 requirements of the Acts enforced by the respective
11 agencies.

12 (c) ADVICE FROM PRIVATE AND PUBLIC SECTORS.—
13 The Secretary shall seek information and advice from rep-
14 resentative elements of the private sector and the non-
15 Federal governmental sector with respect to the provisions
16 of the Fair Labor Standards Act of 1938 and cor-
17 responding regulations as they pertain to the employment
18 of minors.

19 (d) ADVISORY COMMITTEE.—The Secretary shall es-
20 tablish an Advisory Committee for Child Labor to provide
21 overall policy advice on matters referred to in subsection
22 (c). The Committee shall be composed of not less than
23 21 individuals, and shall include representatives of govern-
24 ment, labor, industry, education, agriculture, health pro-
25 fessions, small business, youth, service industries, retail-

1 ers, consumer interests, human rights, child welfare, par-
2 ent groups, and the general public. The Committee shall
3 meet quarterly at the call of the Secretary or upon the
4 call of a majority of the Committee, a quorum being
5 present. The Chairperson of the Committee shall be elect-
6 ed by the Committee from among its members. Members
7 of the Committee shall be appointed by the President for
8 a period of 4 years and may be reappointed for one or
9 more additional periods. The Secretary shall make avail-
10 able to the Committee such staff, information, personnel,
11 and administrative services and assistance as it may rea-
12 sonably require to carry out its activities.

13 **SEC. 9. PUBLICATION OF VIOLATORS.**

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

21 (b) NOTICE TO SCHOOL DISTRICTS.—The Secretary
22 shall post and otherwise make available to affected school
23 districts the name of each employer who violates the provi-
24 sions of section 12 of the Fair Labor Standards Act of
25 1938, relating to child labor, or any regulation issued

1 under such section together with a description of the loca-
2 tion and nature of the violation.

3 **SEC. 10. COVERAGE.**

4 The provisions of sections 12 and 16(e) of the Fair
5 Labor Standards Act of 1938 shall apply to employers re-
6 gardless of the annual dollar volume of sales whereby cer-
7 tain enterprises are exempted from coverage under such
8 Act.

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

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

14 (1) by striking “or” before “(2)”; and

15 (2) by inserting before the semicolon the fol-
16 lowing: “, or (3) any employee under the age of 14
17 years is employed by an employer as a migrant agri-
18 cultural worker (as defined in section 3(8) of the Mi-
19 grant and Seasonal Agricultural Protection Act (29
20 U.S.C. 1802(8)) or seasonal agricultural worker (as
21 defined in section 3(10) of such Act)”.

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

24 (1) in subsection (a)(6), by inserting before the
25 semicolon at the end the following: “, except that

1 this paragraph shall not apply to an employee de-
2 scribed in section 3(1)(3)”; and

3 (2) in subsection (c)—

4 (A) in paragraph (1), by striking “Except
5 as provided in paragraph (2) or (4)” and in-
6 serting “Except as provided in paragraph (2),
7 (4), or (5)”; and

8 (B) by adding at the end the following new
9 paragraph:

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

13 **SEC. 12. REGULATIONS.**

14 The Secretary of Labor shall issue such regulations
15 as are necessary to carry out this Act and the amendments
16 made by this Act.

17 **SEC. 13. AUTHORIZATION.**

18 There is authorized to be appropriated to the Sec-
19 retary of Labor such sums as may be necessary for the
20 additional costs resulting from the amendments made by
21 sections 2 and 5.

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