

107TH CONGRESS  
1ST SESSION

# S. 869

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

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## IN THE SENATE OF THE UNITED STATES

MAY 10, 2001

Mr. HARKIN (for himself, Mr. KENNEDY, Mr. KERRY, Mr. ROCKEFELLER, and Mrs. BOXER) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

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## 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       “Children’s Act for Responsible Employment of 2001” or  
6       “CARE Act”.

7       (b) REFERENCE.—Whenever in this Act an amend-  
8       ment or repeal is expressed in terms of an amendment  
9       to, or repeal of, a section or other provision, the reference  
10      shall be considered to be made to a section or other provi-

1 sion of the Fair Labor Standards Act of 1938 (29 U.S.C.  
2 201 et seq.).

3 **SEC. 2. AGRICULTURAL EMPLOYMENT.**

4 Section 13(c) (29 U.S.C. 213(c)) is amended—

5 (1) by striking paragraph (1) and inserting the  
6 following:

7 “(1) The provisions of section 12 relating to child  
8 labor shall not apply to any employee employed in agri-  
9 culture outside of school hours in the school district where  
10 such employee is living while he or she is so employed,  
11 if such employee is employed by his or her parent, grand-  
12 parent, aunt, uncle, first cousin, or legal guardian, on a  
13 farm that is owned or operated by such parent, grand-  
14 parent, aunt, uncle, first cousin, or legal guardian.”; and

15 (2) by striking paragraphs (2) and (4).

16 **SEC. 3. CIVIL AND CRIMINAL PENALTIES FOR CHILD  
17 LABOR VIOLATIONS.**

18 (a) **CIVIL MONEY PENALTIES.**—Section 16(e) (29  
19 U.S.C. 216(e)) is amended in the first sentence—

20 (1) by striking “\$10,000” and inserting  
21 “\$15,000”;

22 (2) by inserting after “subject to a civil penalty  
23 of” the following: “not less than \$500 and”.

24 (b) **PENALTIES FOR VIOLATIONS RESULTING IN SE-  
25 RIOUS BODILY INJURY, SERIOUS ILLNESS, OR DEATH.**—

1 Section 16 (29 U.S.C. 216) is amended by adding at the  
2 end the following:

3       “(f) Any employer who violates section 12 shall be  
4 liable for such legal or equitable relief as may be appro-  
5 priate where such violation results in serious bodily injury  
6 to, serious illness, or the death of a minor. An action to  
7 recover such relief may be brought against any employer  
8 in a Federal or State court of competent jurisdiction, with-  
9 out regard to the amount in controversy, by any employee  
10 subject to the protections of section 12 or by the employ-  
11 ee’s legal guardian or the employee’s survivors. The court  
12 in such action shall, in addition to any other judgment  
13 awarded to the plaintiff, allow a reasonable attorney’s fee  
14 to be paid by the defendant and the costs of the action.  
15 If the employee, the employee’s legal guardian, or the em-  
16 ployee’s survivors collect a judgment under this subsection  
17 and also seek recovery for the same violation through  
18 State worker’s compensation laws, the provisions of this  
19 subsection shall not be construed to prohibit a State from  
20 electing to offset recovery obtained under this subsection  
21 against recovery provided through such State worker’s  
22 compensation laws. A court, in a case described in the pre-  
23 ceding sentence, may consider the amount recovered under  
24 any State worker’s compensation laws in awarding relief  
25 under this subsection.”.

1        (c) CRIMINAL PENALTIES.—Section 16(a) (29 U.S.C.  
2 216(a)) is amended by adding at the end the following:  
3    “Any person who violates the provisions of section  
4 15(a)(4), concerning oppressive child labor, shall on con-  
5 viction be subject to a fine of not more than \$15,000 (not-  
6 withstanding any provision of section 3571 of title 18,  
7 United States Code, to the contrary), or to imprisonment  
8 for not more than 5 years, or both, in the case of a willful  
9 or repeat violation that results in or contributes to a fatal-  
10 ity of a minor employee or a permanent disability of a  
11 minor employee, or a violation which is concurrent with  
12 a criminal violation of any other provision of this Act or  
13 of any other Federal or State law.”.

14       (d) RULE OF CONSTRUCTION.—Nothing in the  
15 amendments made by this section shall be construed to  
16 preempt any State law that provides protections or rem-  
17 edies for employees that are greater than the protections  
18 or remedies provided under such amendments.

19 **SEC. 4. REPORTING AND RECORD-KEEPING.**

20       Section 12 (29 U.S.C. 212) is amended by adding  
21 at the end the following:

22       “(e)(1) The Secretary and the Director of the Bureau  
23 of the Census of the United States shall biannually com-  
24 pile data from respective State employment security agen-  
25 cies and from other sources in all the States concerning—

1           “(A) the types of industries and occupations in  
2           which children under the age of 18 are employed;  
3           and

4           “(B) cases in which it was determined that chil-  
5           dren were employed in violation of this section.

6           “(2) Each employer who employs an individual in a  
7           State under the age of 18 shall report to the State employ-  
8           ment security agency in the State on any injury to such  
9           individual that results in lost employment time or any ill-  
10           ness such individual incurred while at work. Such report  
11           shall include the age of the individual, the nature of the  
12           job in which the individual is employed (including large-  
13           scale, commercial agriculture), the circumstances sur-  
14           rounding the injury or illness to such individual, and the  
15           report of the physician and health care facility which dealt  
16           with such injury or illness.

17           “(3) Beginning on January 1, 2003, the Secretary,  
18           in conjunction with the Secretary of Health and Human  
19           Services, shall issue a biannual report on the status of  
20           child labor in the United States and its attendant safety  
21           and health hazards.”.

22 **SEC. 5. COORDINATION.**

23           Section 4 (29 U.S.C. 204) is amended by adding at  
24           the end the following:

1        “(g) The Secretary shall encourage and establish  
2 closer working relationships with non-governmental orga-  
3 nizations and with State and local government agencies  
4 having responsibility for administering and enforcing labor  
5 and safety and health laws. Upon the request of the Sec-  
6 retary, and to the extent permissible under applicable law,  
7 State and local government agencies with information re-  
8 garding injuries and deaths of employees shall submit such  
9 information to the Secretary for use as appropriate in the  
10 enforcement of section 12 and in the promulgation and  
11 interpretation of the regulations and orders authorized by  
12 section 3(l). The Secretary may reimburse such State and  
13 local government agencies for such services.”.

14 **SEC. 6. REGULATIONS.**

15       Not later than \_\_\_\_ days after the date of enactment  
16 of this Act, the Secretary of Labor shall promulgate regu-  
17 lations to carry out this Act and the amendments made  
18 by this Act. Such regulations shall take effect not later  
19 than \_\_\_\_ days after the date of such promulgation.

20 **SEC. 7. AUTHORIZATION.**

21       There is authorized to be appropriated to the Sec-  
22 retary of Labor such sums as may be necessary for to  
23 carry out this Act and the amendments made by this Act.

1 **SEC. 8. EFFECTIVE DATE.**

2        The amendments made by this Act shall take effect  
3 on the date on which the regulations promulgated under  
4 section 6 take effect.

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