

113TH CONGRESS
1ST SESSION

S. 1656

To clarify that volunteers at a children's consignment event are not employees under the Fair Labor Standards Act of 1938.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 6, 2013

Mr. BOOZMAN (for himself and Mr. PRYOR) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To clarify that volunteers at a children's consignment event are not employees under the Fair Labor Standards Act of 1938.

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 Consign-
5 ment Event Recognition Act of 2013”.

6 **SEC. 2. PURPOSE.**

7 The purpose of this Act is to ensure that individuals
8 and families may pool their resources, time, efforts, and
9 energies, with or without the assistance of a facilitator,

1 to sell, purchase, and otherwise exchange children’s cloth-
 2 ing, toys, bedding, furniture, and related accessories, and
 3 maternity clothing and accessories without fear that they
 4 will be deemed to be employees under the Fair Labor
 5 Standards Act of 1938 (29 U.S.C. 201 et seq.).

6 **SEC. 3. AMENDMENTS TO THE FAIR LABOR STANDARDS**

7 **ACT OF 1938.**

8 Section 3(e) of the Fair Labor Standards Act of 1938
 9 (29 U.S.C. 203) is amended—

10 (1) in paragraph (1), by striking “and (4)” and
 11 inserting “, (4), (5), and (6)”; and

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

13 “(6)(A) The term ‘employee’ does not include—

14 “(i) individuals who volunteer their serv-
 15 ices before, during, or after a children’s con-
 16 signment event with or without the assistance
 17 of a facilitator and—

18 “(I) provide not less than 15 items for
 19 sale at such children’s consignment event;

20 “(II) receive a right to shop from the
 21 facilitator at such children’s consignment
 22 event before such event is open to the gen-
 23 eral public; or

24 “(ii) the spouse, children, spouses of chil-
 25 dren, grandchildren, parents, and parents of

1 spouses of the individuals described in clause
2 (i).

3 “(B) For purposes of this paragraph, the term
4 ‘children’s consignment event’ means a sale or other
5 event in which—

6 “(i) not less than 90 percent of the fair
7 market value, in the aggregate, of the items of-
8 fered for sale at such event are—

9 “(I) children’s or maternity items;
10 and

11 “(II) resale items offered for sale on
12 consignment by consignors; and

13 “(ii) such event is held in a single physical
14 location and is open to the public for the sale
15 of goods for 8 or fewer sale days within any 30-
16 day period.

17 “(C) For purposes of this paragraph, the term
18 ‘facilitator’ means a person that organizes or hosts
19 a children’s consignment event, or otherwise actively
20 provides an opportunity for individuals described in
21 subparagraph (A) to volunteer at a children’s con-
22 signment event.”.

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