

115TH CONGRESS
1ST SESSION

S. 313

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

FEBRUARY 6, 2017

Mr. BOOZMAN (for himself and Mr. COTTON) 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 2017”.

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(e)) 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 and

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

1 “(ii) the spouse, children, spouses of chil-
 2 dren, grandchildren, parents, and parents of
 3 spouses of the individuals described in clause
 4 (i).

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

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

11 “(I) children’s or maternity items;
 12 and

13 “(II) resale items offered for sale on
 14 consignment by consignors; and

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

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

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