

While at the U.S. attorney's office, in his capacity as the chief of the narcotics division, Mr. Greenaway coordinated narcotics investigations by all Federal agencies in New Jersey and supervised all narcotics prosecutions.

During his tenure at the U.S. attorney's office, Joe handled, in addition to narcotics prosecutions, bank fraud, hijacking, check kiting, sexual abuse, and mail fraud cases.

Since 1990, Mr. Greenaway has served as a corporate counsel with Johnson and Johnson.

Mr. President, I want to again congratulate Joe on his appointment, and wish him all the best in his new position. I hope he will serve on our district court for many years. I know he will serve with distinction, dispensing justice to each person who appears before him with compassion, fairness, and wisdom.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will resume legislative session.

BALERS AND COMPACTORS SAFETY STANDARDS MODERNIZATION ACT

Mr. LOTT. Mr. President, I ask unanimous consent the Labor Committee be immediately discharged from further consideration of H.R. 1114, and that the Senate proceed to its consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 1114) to authorize minors who are under the child labor provisions of the Fair Labor Standards Act of 1938 and who are under 18 years of age to load materials into balers and compactors that meet appropriate American National Standards Institute design safety standards.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 4587

(Purpose: To provide for a substitute amendment)

Mr. LOTT. I understand there is a substitute amendment at the desk offered by Senators HARKIN and CRAIG. I ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

The Senator from Mississippi [Mr. LOTT], for Mr. HARKIN, for himself and Mr. CRAIG, proposes an amendment numbered 4587.

Strike all after the enacting clause and insert the following:

SECTION 1. AUTHORITY FOR 16- AND 17-YEAR-OLDS TO LOAD MATERIALS INTO SCRAP PAPER BALERS AND PAPER BOX COMPACTORS.

Section 13(c) of the Fair Labor Standards Act of 1938 (29 U.S.C. 213(c)) is amended by adding to the end thereof the following paragraph:

"(5)(A) In the administration and enforcement of the child labor provisions of this

Act, employees who are 16 and 17 years of age shall be permitted to load materials into, but not operate or unload materials from, scrap paper balers and paper box compactors—

"(i) that are safe for 16- and 17-year-old employees loading the scrap paper balers or paper box compactors; and

"(ii) that cannot be operated while being loaded.

"(B) For purposes of subparagraph (A), scrap paper balers and paper box compactors shall be considered safe for 16- or 17-year-old employees to load only if—

"(i)(I) the scrap paper balers and paper box compactors meet the American National Standards Institute's Standard Z245.5-1990 for scrap paper balers and Standard ANSI Z245.2-1992 for paper box compactors; or

"(II) the scrap paper balers and paper box compactors meet an applicable standard that is adopted by the American National Standards Institute after the date of enactment of this paragraph and that is certified by the Secretary to be at least as protective of the safety of minors as the standard described in subclause (I);

"(ii) the scrap paper balers and paper box compactors include an on-off switch incorporating a keylock or other system and the control of the system is maintained in the custody of employees who are 18 years of age or older;

"(iii) the on-off switch of the scrap paper balers and paper box compactors is maintained in an off position when the scrap paper balers and paper box compactors are not in operation; and

"(iv) the employer of 16- and 17-year-old employees provides notice, and posts a notice, on the scrap paper balers and paper box compactors stating that—

"(I) the scrap paper balers and paper box compactors meet the applicable standard described in clause (i);

"(II) 16- and 17-year-old employees may only load the scrap paper balers and paper box compactors; and

"(III) any employee under the age of 18 may not operate or unload the scrap paper balers and paper box compactors.

The Secretary shall publish in the Federal Register a standard that is adopted by the American National Standards Institute for scrap paper balers or paper box compactors and certified by the Secretary to be protective of the safety of minors under clause (i)(II).

"(C)(i) Employers shall prepare and submit to the Secretary reports—

"(I) on any injury to an employee under the age of 18 that requires medical treatment (other than first aid) resulting from the employee's contact with a scrap paper baler or paper box compactor during the loading, operation, or unloading of the baler or compactor; and

"(II) on any fatality of an employee under the age of 18 resulting from the employee's contact with a scrap paper baler or paper box compactor during the loading, operation, or unloading of the baler or compactor.

"(ii) The reports described in clause (i) shall be used by the Secretary to determine whether or not the implementation of subparagraph (A) has had any effect on the safety of children.

"(iii) The reports described in clause (i) shall provide—

"(I) the name, telephone number, and address of the employer and the address of the place of employment where the incident occurred;

"(II) the name, telephone number, and address of the employee who suffered an injury or death as a result of the incident;

"(III) the date of the incident;

"(IV) a description of the injury and a narrative describing how the incident occurred; and

"(V) the name of the manufacturer and the model number of the scrap paper baler or paper box compactor involved in the incident.

"(iv) The reports described in clause (i) shall be submitted to the Secretary promptly, but not later than 10 days after the date on which an incident relating to an injury or death occurred.

"(V) The Secretary may not rely solely on the reports described in clause (i) as the basis for making a determination that any of the employers described in clause (i) has violated a provision of section 12 relating to oppressive child labor or a regulation or order issued pursuant to section 12. The Secretary shall, prior to making such a determination, conduct an investigation and inspection in accordance with section 12(b).

"(vi) The reporting requirements of this subparagraph shall expire 2 years after the date of enactment of this subparagraph."

SEC. 2. CIVIL MONEY PENALTY.

Section 16(e) of the Fair Labor Standards Act of 1938 (29 U.S.C. 216(e)) is amended in the first sentence—

(1) by striking "section 12," and inserting "section 12 or section 13(c)(5)."; and

(2) by striking "that section" and inserting "section 12 or section 13(c)(5)".

SEC. 3. CONSTRUCTION.

Section 1 shall not be construed as affecting the exemption for apprentices and student learners published in section 570.63 of title 29, Code of Federal Regulations.

Mr. HARKIN. Mr. President, I am pleased that we are taking action on, H.R. 1114, a common-sense bill that has broad bipartisan support. I especially want to thank my colleague, Senator CRAIG, from the State of Idaho for his hard work with me on this issue.

Use of scrap paper balers and paper box compactors in the grocery industry has expanded since the 1970's due to the increase in recycling of cardboard boxes. The balers and compactors that are prevalent today have gone through significant safety design improvements over the last 20 years—design features that, for example, prevent compression action unless a gate over the loading area is shut.

In other words, modern balers and compactors cannot be loaded while the machine is operating. Such safety features have, since 1982, been codified in design safety standards now recognized as the norm by the waste equipment industry as well as the insurance industry.

Back in 1954, however, balers did not have such safety features. Because they could be loaded while they were being operated they presented a significant danger to individuals unfamiliar with the machines. In response to this concern, the Labor Department issued hazardous occupation order No. 12 (HO 12), prohibiting 16- and 17-year-olds from loading, operating, or unloading balers.

Unfortunately, HO 12 has not been updated to account for the advances in baler and compactor safety. Modern balers cannot be operated when the loading gate is open and are shut off by a key lock held by the store manager or adult supervisor. They are safe, yet

16- and 17-year-olds are still prohibited from even placing cardboard boxes into balers.

As a result, grocery stores all over the country have been fined when 16- and 17-year-old part-time and summer-time workers inadvertently toss cardboard into dormant balers. Millions of dollars in fines have been collected, resulting in a reluctance on the part of grocers to hire anyone under the age of 18. A survey of its members by the Food Marketing Institute showed that 60 percent of grocers reduce the employment opportunities for teenagers because of HO 12. Some simply no longer hire anyone under 18—a needless loss of teen employment. H.R. 1114 addresses this problem.

H.R. 1114 allows 16- and 17-year-olds simply to load—not operate or unload—balers and compactors that meet the safety standards established by the American National Standards Institute. Other provisions dealing with proper notice to employees and safety signs on the equipment further protect the safety of minors.

In order to track the safety impact of this bill, for 2 years employers would be obligated to report to the Secretary of Labor any injury or fatality of an employee under the age of 18 within 10 days of when the incident occurred. The maximum penalty for failure to file such a report would be \$10,000 per violation.

Under these reporting requirements, it is not the intention of Congress to have an employer subjected to a fine of any amount if there is an inadvertent error, such as a wrong street number in an address, or a misspelled name.

Mr. President, I am especially pleased that the bill was negotiated with the United Food and Commercial Workers Union as well as the grocery industry, represented by the Food Marketing Institute and the National Grocers Association. These groups came together and were able to come up with a win-win scenario while still addressing each other's concerns.

This bill passed the House on a voice vote with several members speaking in favor. We are continuing in this bipartisan spirit today. I urge the immediate adoption of H.R. 1114.

Mr. CRAIG. Mr. President, I am pleased to join with the Senator from Iowa [Mr. HARKIN] in offering a substitute amendment to H.R. 1114, and I rise in support of that amendment and that bill. Last year, I introduced the companion bill in the Senate, S. 744.

This legislation, also referred to as the Balers and Compactors Safety Standards Modernization Act, is simple, common-sense legislation to end a regulatory prohibition on minor employees loading balers and compactors that are safe and locked in the off position. These machines commonly are used in supermarkets, grocery stores, and other retail establishments, for preparing and bundling cardboard and paper waste materials for recycling purposes.

Almost 2 years ago, Senator HARKIN and I stood on the floor of this Senate and engaged in a colloquy on this same issue. Then, we were demonstrating one last round of patience with the Department of Labor and discussing a congressional directive, in the Labor-HHS-Education appropriations bill, that DOL reevaluate and take action to update the rule in question.

Today, we urge the Senate to join the House of Representatives in passing a simple bill to accomplish this end.

The amendment offered today by Senator HARKIN and myself addresses concerns that some have had about continuing to ensure the safety of minor employees. This bill, with our amendment, is a balanced, bipartisan approach that has achieved consensus among employers, labor unions, and safety experts.

I commend the Senator from Iowa for his consistent efforts on this issue, and have appreciated working with him.

The Balers and Compactors Safety Standards Modernization Act will make long-overdue revisions to safety standards set by the Department of Labor [DOL] in its hazardous occupation order No. 12 (HO 12).

HO 12 is a regulation issued by DOL in 1954 and intended to protect employees who are under 18 years of age. In brief, it specifically prohibits minors from operating more than a dozen different types of equipment in the workplace. I certainly agree with the underlying purpose of HO 12, which is that younger workers should not be allowed to operate certain types of machinery when doing so would place them in harm's way.

DOL's current interpretation of HO 12 goes so far as to prohibit minors from placing, tossing, or loading cardboard or paper materials into a baler or compactor. Such activities take place during a loading phase that is prior to, and separate from, the actual operation of the machine. While such a loading-phase prohibition may have made sense 42 years ago, when HO 12 was originally issued, such is not the case today.

As often happens, technology has overtaken regulation. Significant safety advances have been made in the design and manufacture of balers and compactors. Much like a household microwave oven or trash compactor, the newest generation of balers now in use in grocery stores and other locations cannot be engaged and operated during the loading phase.

This important design feature is a result of safety standards issued by the American National Standards Institute [ANSI]. An employee is not at risk when placing cardboard materials into a baler that is in compliance with ANSI standard Z.245.5 1990, or putting paper materials into a compactor that is in compliance with ANSI standard Z245.2 1992.

Nonetheless, DOL treats all balers and compactors the same, and considers the placement of materials into

these machines, if performed by a minor, to be a clear-cut violation of HO 12. Each violation can result in a fine of \$10,000 against an employer.

If DOL could produce injury data showing that workers are at risk when loading materials into a machine that meets current ANSI standards, I might agree that the current interpretation and enforcement of HO 12 is warranted. However, DOL has acknowledged that it has no injury data for balers that meet current ANSI standards.

Despite the complete lack of evidence that workers are at risk in these situations, DOL has cited numerous supermarkets throughout the United States and has assessed several million dollars in fines against grocery owners in recent years.

It is difficult to understand the logic behind this kind of enforcement. It benefits no one, especially workers. Worker protection is not enhanced by issuing large fines against employers that use balers meeting current safety standards.

Such a policy also is clearly inconsistent with the goal of creating employment opportunities for young people. Because so many grocers have been fined by DOL for loading violations, the industry has become less inclined to hire younger workers.

Originally, DOL applied this interpretation of HO 12 to cardboard balers. As burdensome and objectionable as this policy has been, concerning cardboard balers, DOL more recently went a step farther and now is applying the same interpretation to compactors, a similar piece of equipment that retail establishments use to recycle paper materials.

Without the benefit of formal rule-making and the opportunity for interested parties to file comments, DOL extended the jurisdiction of HO 12 to compactors at the beginning of 1994, and employers found themselves subjected to fines when it was documented that a minor had placed materials into a compactor.

This is one more example of the speed trap mentality of Federal agencies, and the Department of Labor, in particular. Balers and compactors are both governed by ANSI safety standards and cannot be engaged or operated during the loading phase. This means, to reemphasize, that employees loading machines meeting ANSI standards are not at risk.

Clearly, DOL's position on HO 12, as it relates to cardboard balers and compactors, is not in step with the technology being used in the workplace. In view of the fact that this equipment can not be operated during the loading phase, there is no compelling reason to continue treating the placement of materials by minors a violation of HO 12.

The old joke goes that, when something is difficult to accomplish, you compare it to passing an Act of Congress. If there is one process more intractable, it must be modernizing Federal agency regulations.

Our bill provides a narrow amendment to the Fair Labor Standards Act, to revise the application of HO 12, so that the placement of paper or cardboard materials into a baler or compactor that meets current ANSI safety standards by an employee under age 18 is no longer a violation of the regulation. It affects only the loading phase, which is completely distinguished from the operating phase of the machine.

I have seen these grocery store balers operate. What is needed is a simple, common-sense change, and the bill we are passing today will make that change in a simple, straightforward way.

This bill will open up thousands of youth summer job opportunities without relying on Government programs and grants. The jobs will be there. The young people want them. This bill will remove one significant, unnecessary, regulatory wall between them.

This bill will not change the critically important safety focus of the regulation. In fact, I agree that DOL should remain vigilant and enforce the regulation in cases when the safety of young workers is compromised by use of equipment that does not meet current ANSI safety standards.

This bill would provide only that young workers would be allowed to load balers and compactors that meet the current industry standards that ensure complete safety in their operation. The safety record of this new approach will be borne out by a compromise provision in this amendment that includes specific, modest reporting requirements.

I urge passage of H.R. 1114, with adoption of the amendment offered by Senator HARKIN and myself.

Mr. KENNEDY. Mr. President, I support the substitute for H.R. 1114 that Senator HARKIN and Senator CRAIG have proposed. This legislation is needed to clarify the prohibition in our child labor laws banning the employment of minors in the loading, unloading, or operation of paper balers and paper box compactors. The substitute retains the general prohibition in current law that applies to all such machines. However, where a baler or a compactor meets the current safety standards of the American National Standards Institute, and has an on-off switch with a key lock system in which the key is always in the possession of an adult, then 16- and 17-year-olds will be permitted to load, but not to operate or unload, such machines.

Paper balers have been responsible for the injury and death of too many minors. There is a real danger that the grocery stores that use these machines will allow minors to load balers and compactors that do not meet strict safety standards. Store managers may well assume their machines are safe and allow minors to load them without learning what the standards require.

To reduce that danger, the sponsors of the substitute have included a provision to require reports to the Secretary

of Labor of all significant injuries to minor caused by these machines during the 2 years following enactment. The reports must be filed within 10 days of any injury or death, which will provide adequate time for the Department of Labor or the National Institute for Occupational Safety and Health to investigate the accident and determine its cause. If this change in the law leads to increased injuries or deaths of minors, Congress will have the information to act to require whatever additional prohibition is needed. Failure to make timely and complete injury reports will be penalized by fines up to \$10,000.

We have also received written assurances from the Food Marketing Institute, the largest trade association representing stores that use balers and compactors, that it will undertake a thorough educational campaign to inform its members about the requirements of the standards and the legislation. They have agreed to supply warning labels for the machines their members own and operate that will distinguish between approved machines and those that do not meet the standards. Clearly, we must do all we can to protect those who use these machines.

Finally, the substitute makes two other changes. The bill is drafted as an amendment to the Fair Labor Standards Act, and all of the normal burdens of proof and interpretive principles that apply to exceptions to the act will apply to this amendment. To prevent an unconstitutional delegation of authority to a private organization, the substitute requires the Secretary of Labor to certify that any new standards must be at least as protective of the safety of minors as the current standards, before they take effect.

The goal of this legislation is to make new—and safe—employment opportunities available for young men and women in grocery stores across the Nation.

In closing, I want to thank Dr. Linda Rosenstock and the staff of NIOSH for all of their help in increasing our understanding of the safety problems associated with these machines. Their expertise in occupational safety issues is truly invaluable.

Mr. LOTT. Mr. President, I ask unanimous consent the amendment be considered read and agreed to, the bill be deemed read the third time and passed, the motion to reconsider be laid upon the table, and any statement relating to the measure be printed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 4587) was agreed to.

The bill (H.R. 1114), as amended, was deemed read the third time and passed.

MEASURE READ FOR THE FIRST TIME—H.R. 3396

Mr. LOTT. Mr. President, I understand H.R. 3396 has arrived from the House. I now ask for its first reading.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows: A bill (H.R. 3396) to define and protect the institution of marriage.

Mr. LOTT. I now ask for a second reading.

The PRESIDING OFFICER. Is there objection?

Mr. LOTT. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. LOTT. The bill will remain at the desk to be read, as I understand it, a second time upon the next adjournment of the Senate.

The PRESIDING OFFICER. The Senator is correct.

MEASURE READ FOR THE FIRST TIME—S. 1954

Mr. LOTT. Mr. President, I understand that S. 1954, introduced today by Senator HATCH, is at the desk. I ask for its first reading.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 1954) to establish a uniform and more efficient Federal process for protecting property owners' rights guaranteed by the fifth amendment.

Mr. LOTT. I now ask for a second reading, and I object to my own request on behalf of Senators on the Democratic side of the aisle.

The PRESIDING OFFICER. Objection is heard.

Mr. BRADLEY. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

NUCLEAR WASTE POLICY ACT OF 1996—MOTION TO PROCEED

The Senate continued with the consideration of the motion to proceed.

Mr. REID. Mr. President, what I was talking about when the majority leader came upon the floor—and I will also indicate that at such time as he or his representative returns for other unanimous consent requests, I will be happy to yield the floor at that time—Mr. President, in our open society, which is our national heritage and the essence of America, we cannot deny our enemies many of the same freedoms we ourselves enjoy. There are, as well, many foreign interests, some secret, that will want to promote and publicize their existence and goals through outrageous acts of blatant terrorism and destruction. We know this is happening. Indiscriminate killing of women and children is enough to tear at your heart strings.

What better stage could be set for these enemies than a trainload or a