

110TH CONGRESS
1ST SESSION

H. R. 2674

To amend the Fair Labor Standards Act of 1938 to increase penalties for violations of child labor laws, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 12, 2007

Ms. ROYBAL-ALLARD (for herself, Ms. WOOLSEY, Mr. GRIJALVA, Mr. CUMMINGS, Mr. WEXLER, and Ms. DELAURO) introduced the following bill; which was referred to the Committee on Education and Labor

A BILL

To amend the Fair Labor Standards Act of 1938 to increase penalties for violations of child labor laws, and for other purposes.

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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Children’s Act for Responsible Employment of 2007” or
6 the “CARE Act of 2007”.

7 (b) TABLE OF CONTENTS.—The table of contents for
8 this Act is as follows:

Sec. 1. Short Title; Table of Contents.

Sec. 2. Revised Age Requirement for Child Agricultural Employment; Repeal of Waiver Provision for Hand Harvest Laborers.

Sec. 3. Increased Civil Penalties for Child Labor Violations.

Sec. 4. Special Criminal Penalties for Certain Aggravated Child Labor Violations.

Sec. 5. Report to Congress on Work-Related Injuries to Children and Related Matters.

Sec. 6. Employer Reporting Requirements.

Sec. 7. Pesticide-Related Worker Protection Standard.

Sec. 8. Application of Fair Labor Standards Amendments.

1 **SEC. 2. REVISED AGE REQUIREMENT FOR CHILD AGRICUL-**
 2 **TURAL EMPLOYMENT; REPEAL OF WAIVER**
 3 **PROVISION FOR HAND HARVEST LABORERS.**

4 (a) REVISED AGE REQUIREMENT.—Section 13(c) of
 5 the Fair Labor Standards Act of 1938 (29 U.S.C. 213(c))
 6 is amended by striking paragraphs (1) and (2) and insert-
 7 ing the following:

8 “(c)(1) The provisions of section 12 relating to child
 9 labor shall not apply to any employee under 16 years of
 10 age employed in agriculture, including in an agricultural
 11 occupation that the Secretary of Labor finds and declares
 12 to be particularly hazardous under section 3(1), if—

13 “(A) the employee is employed by a parent of
 14 the employee or by a person standing in the place
 15 of the parent, on a farm owned or operated by the
 16 parent or person; and

17 “(B) the employment is outside of school hours
 18 for the school district where the employee is living
 19 while so employed.”.

1 (b) REPEAL OF WAIVER PROVISION.—Section 13(c)
2 of such Act (29 U.S.C. 213(c)) is further amended by
3 striking paragraph (4).

4 **SEC. 3. INCREASED CIVIL PENALTIES FOR CHILD LABOR**
5 **VIOLATIONS.**

6 Section 16(e) of the Fair Labor Standards Act of
7 1938 (29 U.S.C. 216(e)) is amended—

8 (1) in the first sentence by striking “not to ex-
9 ceed \$10,000” and inserting “not less than \$500
10 and not more than \$50,000”; and

11 (2) by inserting after the first sentence the fol-
12 lowing new sentences: “In the case of a violation
13 under the preceding sentence that results in a seri-
14 ous lost-time work-related injury or a serious lost-
15 time work-related illness (as such terms are defined
16 in section 12A(c)) to an employee or results in the
17 death of an employee, the civil penalty shall be not
18 more than \$50,000. In the case of a repeated or
19 willful violation that results in a serious lost-time
20 work-related injury or a serious lost-time work-re-
21 lated illness to an employee or results in the death
22 of an employee, the civil penalty shall be not more
23 than \$100,000.”.

1 **SEC. 4. SPECIAL CRIMINAL PENALTIES FOR CERTAIN AG-**
2 **GRAVATED CHILD LABOR VIOLATIONS.**

3 Section 16 of the Fair Labor Standards Act of 1938
4 (29 U.S.C. 216) is amended by adding at the end the fol-
5 lowing:

6 “(f) Any person who repeatedly or willfully violates
7 any of the provisions of section 12, and such violations
8 result in or contribute to the death or permanent disability
9 of an employee under 18 years of age at the time of such
10 violation, shall be subject to imprisonment for not more
11 than five years or a fine under title 18, United States
12 Code, or both.”.

13 **SEC. 5. REPORT TO CONGRESS ON WORK-RELATED INJU-**
14 **RIES TO CHILDREN AND RELATED MATTERS.**

15 The Fair Labor Standards Act of 1938 is amended
16 by inserting after section 12 (29 U.S.C. 212) the following
17 new section:

18 **“SEC. 12A. DATA ON WORK-RELATED INJURIES TO CHIL-**
19 **DREN AND RELATED MATTERS.**

20 “(a) DATA ANALYSIS.—Using the sources specified
21 in subsection (b), the Secretary shall analyze data con-
22 cerning children under the age of 18 who are employed
23 in agriculture, and with respect to such children, each seri-
24 ous lost-time work-related injury, serious lost-time work-
25 related illness, or work-related death.

1 “(b) SOURCES SPECIFIED.—The sources referred to
2 in subsection (a) are the following:

3 “(1) Sources within the Department of Labor,
4 including the Wage and Hour Division, the Bureau
5 of Labor Statistics, and the Occupational Safety and
6 Health Administration.

7 “(2) State employment security agencies and
8 other relevant State agencies.

9 “(3) The National Institute for Occupational
10 Safety and Health.

11 “(c) DEFINITIONS.—As used in this section:

12 “(1) The term ‘serious lost-time work-related
13 injury’ means, with respect to an employee under 18
14 years of age, a work-related injury which results in
15 lost employment time for such employee of at least
16 one work day.

17 “(2) The term ‘serious lost-time work-related
18 illness’ means, with respect to an employee under 18
19 years of age, a work-related illness which results in
20 lost employment time for such employee of at least
21 one work day.

22 “(d) REPORT.—The Secretary shall submit an an-
23 nual report to Congress which shall include the fol-
24 lowing—

1 “(1) a summary of the data collected by the
2 Secretary under this section and section 12B;

3 “(2) an evaluation, based on such data, that re-
4 flects the status of child labor and related safety and
5 health hazards; and

6 “(3) any information, based on such data, that
7 leads the Secretary to believe that children under 18
8 years of age may have been employed in violation of
9 section 12.”.

10 **SEC. 6. EMPLOYER REPORTING REQUIREMENTS.**

11 The Fair Labor Standards Act of 1938 (29 U.S.C.
12 201 et seq.) is amended by inserting after section 12A,
13 as added by section 5, the following new section:

14 **“SEC. 12B EMPLOYER REPORTING REQUIREMENTS.**

15 “(a) REPORT.—Not later than five days after an
16 event specified under subsection (b), the employer involved
17 in the event shall submit a report to the Secretary in ac-
18 cordance with subsection (c).

19 “(b) EVENTS SPECIFIED.—An event referred to in
20 subsection (a) is—

21 “(1) a serious lost-time work-related injury to
22 an employee under 18 years of age employed in agri-
23 culture;

1 “(2) the discovery of a serious lost-time work-
2 related illness of an employee under 18 years of age
3 employed in agriculture; or

4 “(3) a work-related death of an employee under
5 18 years of age employed in agriculture.

6 “(c) CONTENTS OF REPORT.—The report required by
7 subsection (a) shall include—

8 “(1) the name and address of the employer;

9 “(2) the name, address, and age of the em-
10 ployee;

11 “(3) details about the injury, illness, or death
12 of the employee; and

13 “(4) such other information as the Secretary of
14 Labor may by regulation prescribe.

15 “(d) PENALTY FOR FAILURE TO REPORT.—The Sec-
16 retary may assess a civil penalty on any employer who fails
17 to file a report as required by this section in an amount
18 up to \$7,000 per violation.

19 “(e) DEFINITION.—As used in this section, the terms
20 ‘serious lost-time work-related injury’ and ‘serious lost-
21 time work-related illness’ have the meanings given those
22 terms in section 12A.”.

1 **SEC. 7. PESTICIDE-RELATED WORKER PROTECTION STAND-**
2 **ARD.**

3 (a) INCORPORATION OF WORKER PROTECTION
4 STANDARD IN CHILD LABOR PROVISIONS.—Not later
5 than 180 days after the date of enactment of this Act,
6 the Secretary of Labor shall issue final rules to incor-
7 porate within the rules relating to the child labor provi-
8 sions of section 12 of the Fair Labor Standards Act of
9 1938 (29 U.S.C. 212) the worker protection standard for
10 workers exposed to pesticides in part 170 of title 40, Code
11 of Federal Regulations. If, after incorporating such stand-
12 ard, the standard in such part is revised, the Secretary
13 shall, by rule, incorporate such revisions within the rules
14 relating to the child labor provisions of section 12 of the
15 Fair Labor Standards Act of 1938 (29 U.S.C. 212).

16 (b) RECONCILIATION OF CIVIL PENALTIES.—Section
17 16 of the Fair Labor Standards Act of 1938 (29 U.S.C.
18 216), as amended by sections 3 and 4, is further amended
19 by adding at the end the following new subsections:

20 “(g) The amount of a civil penalty imposed by the
21 Secretary on a violator for a violation of section 12 of this
22 Act may be offset by the Administrator of the Environ-
23 mental Protection Agency against the amount of a civil
24 penalty imposed by the Administrator for a violation of
25 the worker protection standard promulgated under the
26 Federal Insecticide, Fungicide, and Rodenticide Act (7

1 U.S.C. prec. 121 et seq.) by the same violator if the Ad-
2 ministrator determines that the violation of such standard
3 involved the same conduct affecting the same child work-
4 ers in whose interests the first civil penalty was imposed.

5 “(h) The amount of a civil penalty imposed by the
6 Administrator of the Environmental Protection Agency on
7 a violator for a violation of the worker protection standard
8 promulgated under the Federal Insecticide, Fungicide,
9 and Rodenticide Act (7 U.S.C. prec. 121 et seq.) may be
10 offset by the Secretary against the amount of a civil pen-
11 alty imposed by the Secretary for a violation of section
12 12 of this Act by the same violator if the Secretary deter-
13 mines that the violation of such section involved the same
14 conduct affecting the same child workers in whose inter-
15 ests the first civil penalty was imposed.”.

16 **SEC. 8. APPLICATION OF FAIR LABOR STANDARDS AMEND-**
17 **MENTS.**

18 (a) RULEMAKING.—Not later than 180 days after the
19 date of enactment of this Act, the Secretary of Labor shall
20 issue final rules to implement the amendments made by
21 sections 2 through 6. The rules issued under this sub-
22 section shall take effect not later than 30 days after the
23 date on which the final rules are published in the Federal
24 Register.

1 (b) VIOLATIONS.—The amendments made by sections
2 3 and 4 shall apply to violations of the Fair Labor Stand-
3 ards Act of 1938 (29 U.S.C. 201 et seq.) that occur after
4 the date on which the rules issued under subsection (a)
5 take effect.

6 (c) RULE OF CONSTRUCTION.—Nothing in the
7 amendments made by section 3 or 4 shall be construed
8 to preempt any State law that provides protections or rem-
9 edies for employees that are greater than the protections
10 or remedies provided under such amendments.

11 (d) EMPLOYER REPORTING REQUIREMENTS.—The
12 employer reporting requirements of section 12B of the
13 Fair Labor Standards Act of 1938, as added by section
14 6, shall take effect on the date on which the final rules
15 issued under subsection (a) take effect.

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