

116TH CONGRESS
1ST SESSION

H. R. 3394

To amend the Fair Labor Standards Act of 1938 to strengthen the provisions relating to child labor, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 20, 2019

Ms. ROYBAL-ALLARD (for herself, Ms. SCHAKOWSKY, Mr. POCAN, Mr. SERRANO, Ms. DELAURO, Mr. GALLEG0, Ms. LEE of California, Mr. CÁRDENAS, Mr. LOWENTHAL, Mr. SCHIFF, Mr. SIRES, Mr. MCGOVERN, Ms. BARRAGÁN, Ms. CLARKE of New York, Ms. NORTON, Ms. BASS, Mr. SABLÁN, Ms. MOORE, Ms. WILSON of Florida, Ms. JACKSON LEE, Mr. LYNCH, Mrs. NAPOLITANO, Ms. KAPTUR, Mr. LEVIN of Michigan, and Mr. CICILLINE) 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 strengthen the provisions relating to child labor, 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.**

4 This Act may be cited as the “Children’s Act for Re-
5 sponsible Employment and Farm Safety of 2019” or the
6 “CARE Act of 2019”.

1 **SEC. 2. FINDINGS.**

2 Congress finds the following:

3 (1) Across the United States, there are hun-
4 dreds of thousands of children younger than 18
5 years old who are working in the agricultural indus-
6 try. It is difficult to know exactly how many children
7 are performing the grueling work that is required to
8 plant, pick, process, and pack the food that people
9 eat every day.

10 (2) For farmworkers, many of whom are immi-
11 grants, all of whom are poor and some of whom are
12 undocumented, it is challenging to capture accurate
13 data that reflects both the percentage of children
14 working in one of the nation's most dangerous occu-
15 pations, as well as the scope of the work that they
16 are engaged in. One thing that is notable is that un-
17 like virtually every other job in the labor market,
18 Congress has made exceptions to allow children to
19 lawfully work in this industry.

20 (3) Historically, children have been permitted to
21 work in agriculture at younger ages, for longer
22 hours and under more hazardous conditions than
23 other working children. Like most other agricultural
24 workers, they remain excluded from basic protec-
25 tions provided to workers in other industries under
26 Federal employment laws. Even where protections

1 exist under Federal law, they are seldom ever en-
2 forced.

3 (4) Allowing children to engage in agricultural
4 work from a young age can result in long-term nega-
5 tive consequences, especially when the child worker
6 is not employed on a family farm where family mem-
7 bers take precautions for their children and family
8 members. Working in agriculture as a child can re-
9 sult in an early end to childhood, and long hours
10 worked at unfair and unlawful wages can pose risks
11 to their overall health and lives.

12 (5) Child farmworkers suffer work-related fa-
13 talities at over four times the rate of other young
14 workers, often because exceptions are made that
15 allow farmworker children to operate heavy, dan-
16 gerous equipment and to be exposed to other haz-
17 ards. Yet, great efforts have been taken to strictly
18 limit the possibility of children in other industries
19 from engaging in dangerous work activities or jobs.
20 The demands imposed by doing agricultural work,
21 coupled with the low pay and poor working condi-
22 tions, result in shocking drop-out rates from school.
23 Aside from these risks, farmworker girls are excep-
24 tionally vulnerable to sexual abuse and harassment

1 by supervisors, company owners, crew leaders, co-
2 workers and others.

3 (6) While the focus of this Act is on improving
4 the health and safety for all children engaged in ag-
5 ricultural labor, primarily through strengthened gen-
6 eral wage and hour protections, the high rates of
7 workplace sexual violence against farmworker women
8 and girls should not be ignored, particularly given
9 that they are susceptible to this violence due to the
10 overall lack of workplace protections available to
11 them.

12 **SEC. 3. AMENDED DEFINITIONS.**

13 Section 3(l) of the Fair Labor Standards Act of 1938
14 (29 U.S.C. 203(l)) is amended to read as follows:

15 “(l) ‘Oppressive child labor’ means a condition of em-
16 ployment under which—

17 “(1) any employee who is 16 or 17 years of age
18 is employed by an employer in any occupation found
19 by the Secretary and by order declared to be par-
20 ticularly hazardous for the employment of children
21 between such ages or detrimental to their health or
22 well-being;

23 “(2) any employee who is 14 or 15 years of age
24 is employed by an employer, unless the Secretary
25 has determined that the employment is confined to

1 periods which will not interfere with the schooling of
 2 the employee, and that the conditions of employment
 3 will not interfere with the health and well-being of
 4 the employee; or

5 “(3) any employee who is under 14 years of age
 6 is employed by an employer.”.

7 **SEC. 4. REVISED AGE REQUIREMENT FOR CHILD AGRICUL-**
 8 **TURAL EMPLOYMENT; REPEAL OF WAIVER**
 9 **PROVISION FOR HAND HARVEST LABORERS.**

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

14 “(1) The provisions of section 12 relating to
 15 child labor shall not apply to any employee under 18
 16 years of age who is employed in agriculture by his
 17 or her parent, or by a person standing in the place
 18 of the parent, on a farm owned by the parent or per-
 19 son.

20 “(2) The provisions of section 12 relating to
 21 child labor shall not apply to any employee under 16
 22 years of age who is employed by his or her parent,
 23 or by a person standing in the place of the parent,
 24 in employment other than agricultural employment,
 25 manufacturing, mining, or any other employment

1 the Secretary finds to be particularly hazardous for
 2 the employment of a child 16 or 17 years of age or
 3 detrimental to their health or well-being.”.

4 (b) REPEAL OF WAIVER PROVISION.—Section 13(c)
 5 of such Act (29 U.S.C. 213(c)) is further amended by
 6 striking paragraph (4) and redesignating paragraphs (5)
 7 through (7) as paragraphs (4) through (6), respectively.

8 **SEC. 5. INCREASED CIVIL PENALTIES FOR CHILD LABOR**
 9 **VIOLATIONS.**

10 Paragraph (1) of section 16(e) of the Fair Labor
 11 Standards Act of 1938 (29 U.S.C. 216(e)(1)) is amend-
 12 ed—

13 (1) by striking “person” each place it appears
 14 and inserting “employer”;

15 (2) in subparagraph (A)—

16 (A) by striking “not to exceed” and insert-
 17 ing “of”; and

18 (B) by amending clauses (i) and (ii) to
 19 read as follows:

20 “(i) not less than \$500 and not more than
 21 \$15,000 for each employee who was the subject of
 22 such a violation; or

23 “(ii) not less than \$15,000 and not more than
 24 \$50,000 with regard to each such violation that
 25 causes the serious injury, serious illness, or death of

1 any employee under the age of 18 years, which pen-
2 alty may be doubled where the violation is a re-
3 peated or willful violation.”; and

4 (3) in subparagraph (B) by striking “the term
5 ‘serious injury’ means” and inserting “the terms ‘se-
6 rious injury’ and ‘serious illness’ mean”.

7 **SEC. 6. SPECIAL CRIMINAL PENALTIES FOR CERTAIN AG-**
8 **GRAVATED CHILD LABOR VIOLATIONS.**

9 Section 16 of the Fair Labor Standards Act of 1938
10 (29 U.S.C. 216) is amended—

11 (1) in subsection (a), by striking “Any person”
12 and inserting “Except as provided in subsection (f),
13 any person”; and

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

15 “(f) Any person who repeatedly or willfully violates
16 any of the provisions of section 12, if violations result in
17 or cause the death or serious injury or serious illness of
18 an employee under 18 years of age at the time of such
19 violation, shall be subject to imprisonment for not more
20 than 5 years or a fine under title 18, United States Code,
21 or both.”.

1 **SEC. 7. REPORT TO CONGRESS ON WORK-RELATED INJU-**
2 **RIES TO CHILDREN AND RELATED MATTERS.**

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

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

8 “(a) DATA ANALYSIS.—Using the sources specified
9 in subsection (b), the Secretary shall analyze data con-
10 cerning children under the age of 18 who are employed
11 in agriculture and each work-related injury, illness, or
12 death of any such child.

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

15 “(1) Sources within the Department of Labor,
16 including the Wage and Hour Division, the Bureau
17 of Labor Statistics, and the Occupational Safety and
18 Health Administration.

19 “(2) State employment security agencies and
20 other relevant State agencies.

21 “(3) The National Institute for Occupational
22 Safety and Health.

23 “(c) REPORT.—

24 “(1) IN GENERAL.—The Secretary shall annu-
25 ally submit report to Congress which shall include—

1 “(A) a summary of the data collected by
2 the Secretary under this section and section
3 12B;

4 “(B) an evaluation, based on such data,
5 that reflects the status of child labor and re-
6 lated safety and health hazards; and

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

11 “(2) PUBLICATION.—The Secretary shall, on
12 the date that the Secretary submits each report
13 under paragraph (1) to Congress, publish each such
14 report in the Federal Register and ensure that such
15 reports are posted on the Department of Labor
16 website.”.

17 **SEC. 8. EMPLOYER REPORTING REQUIREMENTS.**

18 The Fair Labor Standards Act of 1938 (29 U.S.C.
19 201 et seq.) is amended by inserting after the new section
20 12A the following new section:

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

22 “(a) REPORT.—Not later than 5 days after an event
23 specified under subsection (b), the employer involved in
24 the event shall submit a report to the Secretary in accord-
25 ance with subsection (c).

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

3 “(1) a work-related serious injury to an em-
4 ployee under 18 years of age employed in agri-
5 culture;

6 “(2) the discovery of a work-related serious ill-
7 ness of an employee under 18 years of age employed
8 in agriculture; or

9 “(3) the work-related death of an employee
10 under 18 years of age employed in agriculture.

11 “(c) CONTENTS.—The report required by subsection
12 (a) shall include—

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

14 “(2) the name, address, and age of the em-
15 ployee;

16 “(3) details relevant to the incident, to include
17 environmental hazards, such as chemical or pesticide
18 exposure, use of machinery or tools at time of inci-
19 dent, work tasks performed at time of incident, and
20 other details relating to the incident; and

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

23 “(d) FAILURE TO REPORT.—The Secretary may as-
24 sess a civil penalty on any employer who fails to file a

1 report as required by this section in an amount not less
2 than \$500 and not more than \$7,000 per violation.

3 “(e) DEFINITION.—In this section, the terms ‘serious
4 injury’ and ‘serious illness’ have the meanings given such
5 terms in section 16(e)(1)(B).

6 “(f) EFFECTIVE DATE.—The requirements under
7 this section shall take effect on the date that is the earlier
8 of—

9 “(1) the date on which the Secretary issues a
10 rule under section 10(a) of the CARE Act of 2019;
11 or

12 “(2) the date that is 6 months after the date
13 of the enactment of such Act.”.

14 **SEC. 9. PESTICIDE-RELATED WORKER PROTECTION STAND-**
15 **ARD.**

16 (a) CONGRESSIONAL FINDING.—Congress finds and
17 declares that the employment of children under the age
18 of 18 in the occupation of a pesticide handler, as such
19 occupation is defined in the worker protection standard
20 for workers exposed to pesticides in part 170 of title 40,
21 Code of Federal Regulations, is particularly hazardous for,
22 and detrimental to the health and well-being of, such chil-
23 dren.

24 (b) REQUIREMENT FOR SECRETARY OF LABOR.—
25 Not later than the date that is 30 days after the date of

1 enactment of this Act, the Secretary of Labor shall revise
2 part 570 of title 29, Code of Federal Regulations, to pro-
3 hibit the employment of a child under the age of 18 to
4 perform any of the tasks or duties described in the defini-
5 tion of the term “handler” in section 170.3 of title 40,
6 Code of Federal Regulations.

7 **SEC. 10. APPLICATION OF FAIR LABOR STANDARDS**
8 **AMENDMENTS.**

9 (a) RULEMAKING.—Not later than the date that is
10 6 months after the date of the enactment of this Act, the
11 Secretary of Labor may prescribe rules as necessary to
12 implement the amendments made by sections 3 through
13 6 and the revision required by section 8. Any such rules
14 issued shall take effect not later than 30 days after the
15 date on which the rules are published in the Federal Reg-
16 ister.

17 (b) VIOLATIONS.—The amendments made by sections
18 3 through 6 and the revision required by section 9 shall
19 apply to violations of the Fair Labor Standards Act of
20 1938 (29 U.S.C. 201 et seq.) that occur after the date
21 on which the rules issued under subsection (a) take effect.

22 (c) RULE OF CONSTRUCTION.—Nothing in the
23 amendments made by section 4, 5, or 6 or in the revision
24 required by section 9 shall be construed to preempt any
25 State law that provides protections or remedies for em-

- 1 ployees that are greater than the protections or remedies
- 2 provided under such amendments or such revision.

