# H. R. 3139

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

### IN THE HOUSE OF REPRESENTATIVES

September 23, 2003

Mr. Lantos (for himself, Mr. Sanders, Ms. Norton, Mr. Frank of Massachusetts, Mr. Delahunt, Mr. Brady of Pennsylvania, Mr. Grijalva, Ms. Woolsey, Mr. Hinchey, Mr. Olver, Ms. Kaptur, Mr. Owens, Mr. McNulty, Mr. Payne, Mr. Faleomavaega, Mr. Clay, Ms. Roybal-Allard, Mr. McGovern, Mrs. Maloney, Mr. Tierney, Ms. Delauro, Mr. Matsui, Mr. Gutierrez, Ms. Schakowsky, Mr. Oberstar, Mr. Frost, Mr. Rush, Ms. Corrine Brown of Florida, Mr. Sherman, Mr. Neal of Massachusetts, Mr. Berman, and Ms. Waters) introduced the following bill; which was referred to the Committee on Education and the Workforce

## A BILL

To amend the Fair Labor Standards Act of 1938 to reform 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 "Youth Worker Protec-
- 5 tion Act".

1	TITLE I—AMENDMENTS TO FAIR
2	LABOR STANDARDS ACT OF 1938
3	SEC. 101. AMENDMENTS TO FAIR LABOR STANDARDS ACT
4	OF 1938 TO ADD A TITLE RELATING TO EM-
5	PLOYMENT OF MINORS.
6	(a) New Title.—The Fair Labor Standards Act of
7	1938 (29 U.S.C. 201 et seq.) is amended by adding at
8	the end the following new title:
9	"TITLE II—EMPLOYMENT OF
10	MINORS
11	"SEC. 201. REQUIREMENTS FOR EMPLOYMENT OF MINORS.
12	"An employer may employ a minor only if the fol-
13	lowing requirements are met:
14	"(1) The minor is at least 14 years old or, if
15	younger than 14 years old, is otherwise permitted to
16	work under this Act.
17	"(2) The minor is employed in accordance with
18	this Act and in accordance with any other Federal,
19	State, or local law that provides greater protection
20	to minors.
21	"(3) The minor has a work permit under sec-
22	tion 203.
23	"(4) In the case of a minor who is between the
24	ages of 16 and 18 years, the employment is not in
25	an occupation that is particularly hazardous for the

- 1 employment of children between those ages or detri-
- 2 mental to their health or well-being, within the
- 3 meaning of section 3(1)(2).
- 4 "SEC. 202. FEDERAL AND STATE RESPONSIBILITIES.
- 5 "(a) Federal Responsibilities.—The Secretary
- 6 shall carry out Federal responsibilities under this title.
- 7 "(b) Designated State Agency.—Each State
- 8 shall designate a State agency to be the issuing authority
- 9 for work permits under this title and to carry out other
- 10 State responsibilities under this title.
- 11 "SEC. 203. WORK PERMIT.
- 12 "(a) Model Form and Application.—The Sec-
- 13 retary shall prescribe a unified model form that contains
- 14 both the work permit required by section 201 and the ap-
- 15 plication for the permit.
- 16 "(b) Contents.—The model form shall provide for
- 17 the following information:
- 18 "(1) Name, date of birth, gender, racial or eth-
- 19 nic background, and contact information of the
- 20 minor.
- 21 "(2) Name, contact information, and consent of
- a parent of the minor.
- 23 "(3) In the case of a school-age minor, a certifi-
- cation by a school official that the official has in-
- 25 formed the minor of school attendance requirements

and has given the minor a written summary of those 1 2 requirements. 3 "(4) Name, contact information, and type of 4 business of the employer. "(5) Type of work. 5 "(6) Summary of age limitations and other 6 7 legal requirements for employment of minors. "(7) Name and contact information of the des-8 9 ignated State agency. 10 "(c) State Modification.—The designated State 11 agency, in consultation with the Secretary, may modify the 12 model form to improve clarity or information content, or to improve the implementation of this title in conjunction with related provisions of State law. 14 "(d) Duration of Permit.—A work permit issued 15 under this section shall expire on the earliest of— 17 "(1) the expiration date specified in the permit; 18 "(2) 1 year after the date of issuance of the 19 permit; "(3) the end of the employment for which the 20 21 permit is issued; or "(4) a change in school districts by the minor. 22 "(e) School Certification for Work Permit 23 ISSUED WHILE SCHOOL NOT IN SESSION.—A work permit that is issued when school is not in session shall be subject

- 1 to certification under subsection (b)(3) not later than 30
- 2 days after school resumes. If the minor does not obtain
- 3 certification during that period, the permit shall be sus-
- 4 pended until the certification is obtained. As used in this
- 5 subsection, the term 'in session' has the meaning given
- 6 that term under the law applicable to the school district
- 7 in which the minor involved lives.
- 8 "(f) Revocation of Work Permit and Appeal.—
- 9 "(1) REVOCATION.—The designated State
- agency may, after notice and an opportunity to re-
- spond, revoke a work permit, if the agency finds ei-
- ther of the following:
- 13 "(A) The minor is not in compliance with
- school attendance requirements.
- 15 "(B) The minor is adversely affected by
- the employment involved.
- 17 "(2) APPEAL.—A minor (or the parent of a
- minor) or an employer may appeal a decision under
- paragraph (1), in accordance with applicable law.
- 20 "SEC. 204. WORKING-HOUR RESTRICTIONS FOR MINORS.
- 21 "(a) School-Age Minors.—An employer may not
- 22 permit a school-age minor to work during school hours.
- 23 "(b) Minors 16 or 17 Years of Age.—An em-
- 24 ployer may not permit a minor who is 16 or 17 years of
- 25 age—

1	"(1) to work before 7 a.m. on any day;
2	"(2) to work later than 10 p.m. on a day before
3	a school day or later than 11 p.m. on any other day;
4	"(3) to work more than 4 hours on a school day
5	or more than 8 hours on any other day;
6	"(4) to work more than 20 hours during a week
7	in which school is in session or more than 40 hours
8	during any other week; or
9	"(5) to work on more than 6 consecutive days.
10	"(c) Minors 14 or 15 Years of Age.—An em-
11	ployer may not permit a minor who is 14 or 15 years of
12	age—
13	"(1) to work before 7 a.m. on any day;
14	"(2) to work later than 7 p.m. on any day, ex-
15	cept that during summer vacation periods (or during
16	corresponding vacation periods for year-round
17	schools) the latest hour for work under this para-
18	graph shall be 9 p.m.;
19	"(3) to work more than 3 hours on a school day
20	or more than 6 hours on any other day;
21	"(4) to work more than 15 hours during a week
22	in which school is in session or more than 30 hours
23	during any other week; or
24	

1	"(d) Definitions.—As used in this section, the
2	terms 'school hours', 'school day', and 'in session', respec-
3	tively, have the meanings given those terms under the law
4	applicable to the school district in which the minor in-
5	volved lives.
6	"SEC. 205. NOTIFICATION OF SERIOUS WORK-RELATED IN-
7	JURIES.
8	"(a) In General.—If a minor sustains a serious
9	work-related injury, each person specified in subsection
10	(b) shall so notify the designated State agency, which shall
11	inform each parent of the minor of the injury.
12	"(b) Persons Specified.—The persons referred to
13	in subsection (a) are:
14	"(1) The employer of the minor.
15	"(2) If medical attention is given to the minor,
16	an appropriate medical professional who is respon-
17	sible for that medical attention.
18	"(3) If the injury is the subject of investigation
19	by a law enforcement agency, an appropriate em-
20	ployee of that agency.
21	"(4) If the minor attends school and is absent
22	for more than 3 days because of the injury, an ap-
23	propriate employee of the school.

1	"(c) Definition.—As used in this section, the term
2	'serious work-related injury' means, with respect to a
3	minor, a work-related injury that results in—
4	"(1) the death of the minor;
5	"(2) medical attention for the minor; or
6	"(3) investigation by a law enforcement agency.
7	"SEC. 206. DATA COMPILATION, RETENTION, AND REPORT-
8	ING BY DESIGNATED STATE AGENCY.
9	"(a) Data Compilation and Retention.—The
10	designated State agency shall compile, on a continuing
11	basis, and retain, for not less than 7 years, the following:
12	"(1) Statistical data derived from the work per-
13	mits under section 203.
14	"(2) Statistical data relating to injuries for
15	which notification is required under section 205.
16	"(b) Annual Reports.—The designated State
17	agency shall report annually to the Secretary of Labor,
18	at such time and in such manner as the Secretary may
19	require—
20	"(1) statistical data referred to in subsection
21	(a); and
22	"(2) information relating to the activities and
23	number of work-hours devoted by State and local
24	government employees (including contractors) to the

1	administration and enforcement of child labor laws
2	in the State.
3	"SEC. 207. PROHIBITION OF YOUTH PEDDLING.
4	"No employer may employ a minor in youth peddling.
5	"SEC. 208. ENFORCEMENT.
6	"(a) CIVIL ACTION FOR BODILY INJURY, ILLNESS,
7	OR DEATH.—
8	"(1) In general.—A minor who suffers bodily
9	injury, illness, or death as a result of a violation of
10	this title may bring a civil action against the viola-
11	tor. The civil action may be brought in an appro-
12	priate Federal court (without regard to the amount
13	in controversy) or in an appropriate State court.
14	"(2) Relief.—In a civil action under this sub-
15	section, the court—
16	"(A) may grant appropriate legal or equi-
17	table relief; and
18	"(B) shall order the defendant to pay to a
19	prevailing plaintiff appropriate amounts for at-
20	torney fees and costs.
21	"(3) Relation to state workers' com-
22	PENSATION.—In awarding relief under this sub-
23	section, the court may take into consideration any
24	payment for the bodily injury, illness, or death under
25	State workers' compensation law. If so provided by

- 1 State law, any amount awarded under this sub-
- 2 section may be offset against State workers' com-
- 3 pensation payments for the bodily injury, illness, or
- 4 death.
- 5 "(b) Public Disclosure of Violations.—In the
- 6 case of any final determination that a violation of this title
- 7 has occurred, the Secretary shall, not later than 30 days
- 8 after the date of the determination, publish in the Federal
- 9 Register and on the web page of the Department of Labor
- 10 the following:
- 11 "(1) The name of the violator, including any
- business name and any other name by which the vio-
- lator is known publicly.
- 14 "(2) The address of the location at which the
- violation occurred.
- 16 "(3) A description of the facts underlying the
- 17 violation.
- 18 "(4) A statement of the penalty imposed.
- 19 "(c) Civil Penalties.—Any person who violates
- 20 this title, or any regulation under this title, shall be sub-
- 21 ject to a civil penalty of not less than \$500 and not more
- 22 than \$15,000 for each employee who is the subject of the
- 23 violation, except that—

1	"(1) in the case of a violation that results in se-
2	rious injury or death, the civil penalty shall be not
3	less than \$15,000 and not more than \$50,000; and
4	"(2) in the case of a willful or repeat violation
5	the civil penalty shall be not less than \$15,000 and
6	not more than \$100,000.
7	"(d) Criminal Penalties.—Whoever violates this
8	title shall be imprisoned not more than 3 years or fined
9	under title 18, United States Code, or both, except that
10	in the case of a second or subsequent offence, the penalty
11	shall be imprisonment of not less than 3 years and not
12	more than 5 years and a fine under title 18, United States
13	Code, or both.
14	"SEC. 209. DEFINITIONS.
15	"As used in this title:
16	"(1) The term 'designated State agency' means
17	an agency designated under section 202(b).
18	"(2) The term 'minor' means an individual who
19	is under the age of 18 years.
20	"(3) The term 'parent' includes, with respect to
21	a minor, a legal guardian and any person standing
22	in loco parentis.
23	"(4) The term 'school-age minor' means a
24	minor who, as determined under the law applicable
25	to the school district in which the minor lives has

1	not earned a high school diploma or other document
2	of equivalent or greater status. ".
3	(b) Clerical Amendment.—The Fair Labor
4	Standards Act of 1938 (29 U.S.C. 201 et seq.) is amended
5	by inserting before section 2 the following new title head-
6	ing:
7	"TITLE I—FAIR LABOR
8	STANDARDS".
9	SEC. 102. AMENDMENT TO FAIR LABOR STANDARDS ACT OF
10	1938 TO PROVIDE MINIMUM AGE PARITY FOR
11	CHILD LABOR IN AGRICULTURAL AND NON-
12	AGRICULTURAL EMPLOYMENT.
13	Section 13(c) of the Fair Labor Standards Act of
14	1938 (29 U.S.C. 213(c)) is amended—
15	(1) in paragraph (1)(A)—
16	(A) by striking "twelve years of age and
17	(i)" and inserting "fourteen years of age and";
18	and
19	(B) by striking "(ii)" and all that follows
20	through "section 6(a)(5),";
21	(2) by striking subparagraph (B); and
22	(3) by redesignating subparagraph (C) as sub-
23	paragraph (B).

1	SEC. 103. AMENDMENT TO FAIR LABOR STANDARDS ACT OF
2	1938 TO IMPOSE A UNIFORM MINIMUM AGE
3	FOR EMPLOYMENT IN ALL HAZARDOUS OC-
4	CUPATIONS.
5	Section 13(c) of the Fair Labor Standards Act of
6	1938 (29 U.S.C. 213(c)) is amended—
7	(1) by striking paragraph (2); and
8	(2) in the matter before subparagraph (A) of
9	paragraph (1), by striking "(2) or".
10	SEC. 104. AMENDMENT TO FAIR LABOR STANDARDS ACT OF
11	1938 TO ELIMINATE SECRETARIAL WAIVER
12	AUTHORITY FOR CERTAIN HAND HARVEST
13	LABOR BY CHILDREN.
14	Section 13(c) of the Fair Labor Standards Act of
15	1938 (29 U.S.C. 213(c)) is amended by striking para-
16	graph (4).
17	SEC. 105. AMENDMENT TO FAIR LABOR STANDARDS ACT OF
18	1938 TO ELIMINATE A CHILD LABOR EXCEP-
19	TION FOR SCRAP PAPER BALERS AND PAPER
20	BOX COMPACTORS.
21	The Fair Labor Standards Act of 1938 (29 U.S.C.
22	201 et seq.) is amended—
23	(1) by striking paragraph (5) of section 13(c)
24	(29  U S C  213(c)(5)): and

1	(2) in the first sentence of section 16(e) (29
2	U.S.C. $216(e)$ ), by striking "or section $13(c)(5)$ "
3	each place it appears.
4	SEC. 106. AMENDMENT TO FAIR LABOR STANDARDS ACT OF
5	1938 TO INCLUDE YOUTH PEDDLING.
6	(a) FINDING.—The second sentence of section 2(a)
7	of the Fair Labor Standards Act of 1938 (29 U.S.C.
8	202(a)) is amended by striking "affects" and inserting the
9	following: "and the employment of persons under the age
10	of 18 years in youth peddling affect".
11	(b) Definitions.—Section 3 of the Fair Labor
12	Standards Act of 1938 (29 U.S.C. 203) is amended by
13	adding at the end the following new subsections:
14	"(z) 'Youth peddling' means sale of goods or services
15	by a minor in a public place (including any street corner
16	roadway median, sports facility, performing arts facility,
17	or public transportation station), at the residence of the
18	customer, at the place of business of the customer, or from
19	a vehicle, except that such term does not include—
20	"(1) newspaper delivery to a customer at the
21	residence of the customer or at the place of business
22	of the customer;
23	"(2) sale of goods or services at a fixed retail
24	location: or

1 "(3) sale of goods or services on behalf of an 2 organization that is described in section 501(c) of the Internal Revenue Code of 1986 and is exempt 3 from taxation under section 501(a) of such Code, if the minor is a volunteer and does not receive com-6 pensation for the sale. "(aa) 'Minor' means an individual who is under the 7 8 age of 18 years.". TITLE II—MISCELLANEOUS 9 **PROVISIONS** 10 SEC. 201. HAZARDOUS OCCUPATIONS RULE BASED ON 12 NIOSH REPORT. 13 (a) IN GENERAL.—Not later than 24 months after the date of the enactment of this section, the Secretary 14 15 of Labor shall promulgate a rule, under section 553 of title 5, United States Code, to carry out this section. 17 (b) Scope of Rule.—The rule referred to in sub-18 section (a) shall provide that, in the application and en-19 forcement of the child labor provisions of the Fair Labor 20 Standards Act of 1938 (29 U.S.C. 201 et seq.), any occu-21 pation specified in subsection (c) is particularly hazardous for the employment of children between the ages of 16 23 and 18 years or detrimental to their health or well-being, within the meaning of section 3(1)(2) of that Act (29) U.S.C. 203(1)(2)).

1	(c) Occupations Specified.—The occupations re-
2	ferred to in subsection (b) are—
3	(1) the occupations that are the subjects of rec-
4	ommendations pertaining to current hazardous or-
5	ders, as stated in part IV of the report entitled "Na-
6	tional Institute for Occupational Safety and Health
7	(NIOSH) Recommendations to the U.S. Department
8	of Labor for Changes to Hazardous Orders", dated
9	May 3, 2002; and
10	(2) the occupations that are the subjects of rec-
11	ommendations for new hazardous orders, as stated
12	in part V of that report.
13	(d) Rule Consistency With NIOSH Rec-
14	OMMENDATIONS.—With respect to each occupation, the
15	rule shall impose requirements that are consistent with the
16	parts IV and V recommendations in the NIOSH report,
17	except that—
18	(1) in the case of the part IV recommendation
19	HO 10 for Non-Agricultural Occupations, the rule
20	may not provide for employment of children between
21	the ages of 16 and 18 years in the operation of
22	power-driven meat and food slicers in the wholesale,
23	retail, or services industry;
24	(2) the rule may not allow for the operation of
25	counter-top models of power-driven bakery machines.

- 1 as proposed in the part IV recommendation HO 11
- 2 for Non-Agricultural Occupations; and
- 3 (3) in the case of the part IV recommendation
- 4 HO 1 for Agricultural Occupations, the rule may not
- 5 provide for employment of children between the ages
- of 14 and 15 years as tractor operators.

#### 7 SEC. 202. PERIODIC REVIEW OF RESTRICTED OCCUPATION

- 8 AND HAZARDOUS OCCUPATION ORDERS.
- 9 (a) In General.—At appropriate intervals, but in
- 10 no case less than once during each five-year period, the
- 11 Secretary of Labor shall conduct a comprehensive review
- 12 of Restricted Occupation Orders and Hazardous Occupa-
- 13 tion Orders to assure that such Orders are current and
- 14 effective in light of changes in science and technology,
- 15 data on occupational injuries, and other relevant factors.
- 16 (b) Rules.—At the end of each review referred to
- 17 in subsection (a), the Secretary shall promulgate rules,
- 18 under section 553 of title 5, United States Code, to effect
- 19 necessary changes in Restricted Occupation Orders and
- 20 Hazardous Occupation Orders.
- 21 (c) Timing.—The first five-year period referred to in
- 22 subsection (a) is the five-year period beginning with the
- 23 year in which this section is enacted.

1	SEC. 203. RULE TO PROHIBIT EMPLOYMENT OF MINORS IN
2	CERTAIN ACTIVITIES.
3	(a) In General.—Not later than 24 months after
4	the date of the enactment of this section, the Secretary
5	of Labor shall promulgate a rule, under section 553 of
6	title 5, United States Code, to prohibit employment of mi-
7	nors in the following activities:
8	(1) Seafood processing.
9	(2) Employment requiring a minor to handle or
10	dispose of oil or other liquids from fryers.
11	(b) Definition.—As used in this section, the term
12	"minor" means an individual who is under the age of 18
13	years.
14	SEC. 204. REVIEW OF HEALTH AND SAFETY DATA; RULES.
15	(a) Review.—Not later than 36 months after the
16	date of the enactment of this section, the Secretary of
17	Labor shall complete a review of health and safety data
18	on the employment of minors in the following activities:
19	(1) Repetitive bending, stooping, twisting, and
20	squatting.
21	(2) Lifting of heavy objects and unwieldy ob-
22	jects.
23	(3) Working alone or late at night in retail es-
24	tablishments where there is direct contact with the
25	public and cash is handled.

- 1 (4) Work in the entertainment industry that is
- detrimental to the health, safety, education, or well-
- 3 being of minors.
- 4 (b) Rules.—Upon completion of the review under
- 5 subsection (a), the Secretary shall submit to the Congress
- 6 a report of the review, together with appropriate rules
- 7 under section 553 of title 5, United States Code. The ef-
- 8 fective date of the rules shall be not earlier than 12
- 9 months after the date on which congressional review be-
- 10 gins under section 801 of title 5, United States Code.
- 11 (c) Definition.—As used in this section, the term
- 12 "minor" means means an individual who is under the age
- 13 of 18 years.

### 14 TITLE III—EFFECTIVE DATES

- 15 SEC. 301. EFFECTIVE DATE.
- 16 The provisions of this Act shall take effect on the
- 17 date of the enactment of this Act, except that section 101
- 18 of this Act shall take effect on the first day of the 12th
- 19 month after the month in which this Act is enacted.

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