

AUTHORIZING MINORS TO LOAD MATERIALS INTO BALERS AND COMPACTERS

Mr. BALLENGER. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the 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 compacters that meet appropriate American National Standards Institute design safety standards, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Senate amendment:

Strike out all after the enacting clause and insert:

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 new 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 ANSI 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 key-lock 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. BALLENGER (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore (Mr. HOBSON). Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from North Carolina?

Mr. ANDREWS. Mr. Speaker, reserving the right to object, I do not intend to object. I ask the gentleman from North Carolina, the subcommittee chairman, if he would explain the legislation.

Mr. BALLENGER. Mr. Speaker, will the gentleman yield?

Mr. ANDREWS. I yield to the gentleman from North Carolina.

Mr. BALLENGER. Mr. Speaker, H.R. 1114 amends regulations which the Department of Labor has issued and which prohibit employers from allowing teenage employees from loading, operating, or unloading paper balers and paper compactors, such as are normally used by grocery stores and other facilities that receive a lot of items in boxes and similar paper based containers.

The House of Representatives passed H.R. 1114 on October 24 of last year. The Senate has returned the bill with an amendment that essentially makes two changes to bill which we in the House passed last year.

The first change addresses a concern which some had with the constitutionality of one aspect of the House-passed bill. Under the House bill, teenagers would be allowed to load paper balers and compactors which meet the most current safety standard issued by the American National Standards Institute, or ANSI, so long as certain other protections were also provided. While it is clear that Congress may, by reference, incorporate the current ANSI standard, there was concern about incorporating by reference future standards by a nongovernmental entity. Under the Senate amendment, future ANSI standards would apply only if the Secretary of Labor certifies that the standard is at least as protective of the safety of minors as the current ANSI standards are.

Second, the Senate amendment adds a reporting requirement to the legislation. During the 2 years following enactment, employers will be required to report any injuries and fatalities to employees under age 18 to the Department of Labor, if those injuries or fatalities result from contact with a paper baler or compactor during the loading, operating, or unloading of the machine. The purpose of this reporting requirement is to provide the Department of Labor and Congress with information on the impact, if any, on teenage injuries, of this legislation and of allowing teenagers to load materials into certain paper balers and compactors. I might add here a note that under the bill, a violation of the reporting requirement is considered a child labor violation and therefore subject to a fine of up to \$10,000 per violation. Given the way in which the Department of Labor has sometimes enforced paperwork and recordkeeping requirements in other contexts, I want to add to something that Senator HARKIN said in presenting this amendment in the Senate: The purpose of the reporting requirement is to get information on injuries, if any, to teenagers from paperbalers over the next 2 years. Employers should not be fined for relatively minor or inadvertent errors in following the reporting requirements. The purpose of this requirement is to collect information not to have another reason to fine employers.

Mr. Speaker, I support the Senate amendment and I thank the gentleman for yielding.

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Mr. ANDREWS. Mr. Speaker, continuing under my reservation of objection, I want to concur in the comments of my friend and say this is really the Youth Job Protection Act. This is going to help a lot of young people get jobs in grocery stores and supermarkets and protect their health and safety at the same time.

I want to thank the gentleman from North Carolina [Mr. BALLENGER] and the gentleman from Illinois [Mr. EWING] for their excellent work on this bill, and the other members of the committee and also representatives from labor and management. I concur in his remarks, am happy to work with him.

Mr. EWING. Mr. Speaker, I rise in strong support of the Senate amendments to H.R. 1114, and urge the House to once again pass this important legislation and send it to President Clinton's desk for his quick signature. Action by the House will encourage grocery stores to start hiring teenagers again this summer.

As my colleagues know from the previous consideration of this legislation, the Labor Department has been vigorously enforcing Hazardous Occupation Order 12, a regulation which hasn't been updated in about 40 years and which prohibits teenage workers from in any way coming in contact with paper balers and compactors. My colleagues know that the modern machines are extremely safe, but the Labor Department has been handing out fines up to \$10,000 for a single violation of H.O. 12.

This final legislation will only allow 16- and 17-year-old workers to load modern machines, but retains the prohibition on teenagers operating or unloading any paper balers or compactors. Before teens could load a machine, it must meet modern safety standards set by the American National Standards Institute [ANSI] including an on-off switch with a key-lock system and which cannot be operated while being loaded, and requires the on-off switch to be in the off position when the equipment is not in operation. The legislation also requires the key to be maintained is not in operation. The legislation also requires the key to be maintained in the custody of adult employees and requires the employer to post notice that the machine meets safety standards and that 16 and 17 year olds may load only, but not operate or unload. In addition, the Senate added two additional safety provisions allowing the Secretary of Labor to certify that future ANSI safety standards are at least as protective as the current standards, and requiring that for 2 years any injuries involving teenagers working with these machines be reported to the Labor Department.

Mr. Speaker, it is unfortunate that while this Congress clearly has determined that H.O. 12 is outdated, the Labor Department has continued its excessive and unreasonable enforcement while this legislation was being written. For example, the Department's Wage and Hour Division recently cited a grocery store in the Midwest for alleged violations involving six teenage employees. The store is facing fines in excess of \$14,000.

The supermarket has a compactor which is not inside the store, but is located outside, on a back lot. It is connected by an 8 foot long chute which goes from the building to the compactor and is loaded through the chute from inside the supermarket. Adequate notice and safety precautions were posted on the

door of the chute, indicating that minors are not to load or operate the machine. The manager told the employees that they were not allowed to place cardboard down the chute. Despite these good-faith efforts, six young employees decided that there was no harm in throwing boxes down the chute.

Because the machine is outside the store, the teenagers still never came in contact with the compactor and there were never any injuries. However, the Labor Department still levied fines against this store of more than \$14,000.

I am told that this supermarket, which is located in a small town, is not profitable and the owner is considering closing the store because of the huge fine he is being asked to pay. If this happens, the Labor Department will have put more than 50 people out of work.

Passage of this legislation is a clear statement of the intent of Congress. It is my hope that the Labor Department will heed this message and re-evaluate the pending enforcement proceedings in this case, withdraw the fines, and save 50 jobs.

This legislation is a good example of how labor and management and Republicans and Democrats can work in a spirit of compromise to solve a problem. Over the past several months we have negotiated with all interested parties to write this legislation. I would like to thank my partner, Congressmen LARRY COMBEST, who has helped lead this effort for over 2 years. I would also like to thank Chairmen GOODLING and BALLENGER for their assistance, and Congressman ROB ANDREWS for playing a critical role in negotiating this compromise. In addition, I would like to thank Senators CRAIG, KASSEBAUM, KENNEDY, and HARKIN for their assistance in moving this legislation through the Senate. I would also like to recognize the cooperative spirit in which the Food Marketing Institute, the National Grocers' Association, and the United Food and Commercial Workers' Union worked to come to a compromise which will put an end to unnecessary regulation without jeopardizing the safety of workers. Unfortunately, throughout this entire process the Labor Department played absolutely no useful role and showed zero interest in solving this problem.

Mr. ANDREWS. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. HOBSON). Is there objection to the request of the gentleman from North Carolina?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BALLENGER. Mr. Speaker, I ask unanimous consent that all members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on H.R. 1114 and the Senate amendment thereto.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

REFORM WEEK HAS BECOME WEAK REFORM

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend here remarks.)

Ms. DELAURO. Mr. Speaker, for months the Republican leadership has been talking about reform week and promising to end the current money chase in Washington. Well, today the House held reform hour, and it was a disgrace. Instead of presenting legislation that could have passed the House with a bipartisan majority, the Republican leadership put up a bill that benefited special interests only.

Ralph Nader's group Public Citizen called the Thomas bill a big step in the wrong direction on campaign finance and urged its defeat. Common Cause said:

The repackaged Thomas bill is phony reform that locks in the corrupt status quo, leaves open the floodgates for special-interest PAC money and increases the amount wealthy individuals can contribute to influence special elections.

Now reform week has come and gone, and the Republican leadership has squandered any chance we had to keep our promise to reform the political money game in Washington. Reform week has truly become weak reform.

REQUEST FOR PERMISSION TO PRESENT SPECIAL ORDER

Mr. CLINGER. Mr. Speaker, I ask unanimous consent to present my special order at this time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

Ms. KAPTUR. I object, Mr. Speaker.

The SPEAKER pro tempore. Objection is heard.

TRIBUTE TO CAPT. JOHN WILLIAM (JACK) KENNEDY

(Mr. WOLF asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WOLF. Mr. Speaker, CAPT. John William (Jack) Kennedy is coming home. Next Friday, August 2, a nearly 25-year saga surrounding the fate of Captain Kennedy, a missing-in-action Air Force pilot in Vietnam, will end at Arlington National Cemetery.

On August 16, 1971, Air Force Captain Kennedy was flying an O-2A aircraft, solo, on a visual reconnaissance mission over the Quangtin Province of South Vietnam when radio contact was lost. He was a forward air controller pilot for the 20th Tactical Air Support Squadron based in Chu Lai, Vietnam, in support of the 23d Infantry Division. The area in which he was flying was rugged mountainous terrain covered by thick jungle and a known location of enemy ground forces. When Captain Kennedy failed to respond to normal communications checks, a search effort was initiated. But no crash was found, no radio contacts made, and no witnesses were identified. He was listed as "Mission in Action," a status he carried until the Air Force moved to