

Resource ID# 5126

Fair Labor Standards Act Provides Inadequate Protection**FLSA Provides Inadequate Protection**[Back to Campaign Objectives](#)**Problem:**

- Child labor provisions are divided into two categories: agricultural and non-agricultural labor.
- Minors working in agriculture are less protected from exploitation and more exposed to hazardous employment which threatens their health, safety, education, and well-being.

Status:

- Seventy-six percent of the states set a minimum age for non-agricultural employment at 14 years. In agricultural employment, 27 percent of the states set a minimum age below 14 years and 49 percent have no minimum age for employment.
- For child agricultural workers, the maximum hours of work while school is in session is either greatly extended or no maximum is set at all: 57 percent of the states do not set maximum hours for 14- and 15-year-olds and 78 percent do not set maximum hours for 16- and 17-year-olds. For states that do set maximum hours of work, they are as high as 60 hours a week, even when school is in session.

Model State Child Labor Law:

In response to outdated and insufficient state child labor laws, the Child Labor Coalition drafted a model state law. Important provisions in the model law provide equal protection for migrant and seasonal farmworker children, as provided for minors employed in non-agricultural industries.

- The model law sets a minimum age of 14 for all employment (whether non-agricultural or agricultural employment);

- The model law sets the same maximum hours of work while school is in and out of session (for non-agricultural and agricultural employment):

When School is in Session:

14- and 15-year-olds -- 15 hours maximum

16- and 17-year-olds -- 20 hours maximum

When School is Not in Session:

14- and 15-year-olds -- 30 hours maximum

16- and 17-year-olds -- 40 hours maximum

- The model law prohibits minors (under age 18) from dangerous agricultural occupations and substances and operating hazardous tools and machinery.
- The model law requires certificate of employment for working minors, regardless of occupation.

Problem:

- Child labor provisions are divided into two categories: agricultural and non-agricultural labor.
- Minors working in agriculture are less protected from exploitation and more exposed to hazardous employment which threatens their health, safety, education, and well-being.

Status:

- A migrant farmworker child can be employed in agriculture even if younger than 12 years of age.
- Even without parental consent, 10- and 11-year-old migrant farmworker children can be used as hand-harvesters if the farm gets a waiver from the U.S. Department of Labor.
- A migrant farmworker child can work in agriculture more than 40 hours a week, even during the school term.
- A migrant farmworker child can work an unlimited number of hours performing agricultural services before school.
- A migrant farmworker child 14 years old or younger can use knives, machetes, operate machinery, and be exposed to dangerous pesticides.
- A migrant farmworker child may engage in hazardous employment at the age of sixteen years. Hazardous employment in other industries and occupations is prohibited for minors under the age of eighteen.
- Migrant farmworker children, like their parents, are often exempt from unemployment compensation, worker's compensation, overtime, and federal minimum wage.

"Young American Workers Bill of Rights":

(Rep. Tom Lantos - sponsor).

The bill amends the Fair Labor Standards Act of 1938 to reform the provisions relating to child labor.

Among other things, the bill provides equal protection for minors working as migrant and seasonal farmworkers, as for those minors who are engaged in non-agricultural employment. Equal standards are set for minimum age for employment (14 years), day and weekly hours restrictions, requirements for work permits, etc. Additionally, the bill identifies several occupations that are particularly hazardous for the employment of children between the ages of 16 and 18. Pesticide handling will be added to the list of Hazardous Occupations Orders. These provisions do not apply to children working on family farms.

Association of Farmworker Opportunity Programs
1611 North Kent Street, Suite 910
Arlington, VA 22209
VOICE: (703) 528-4141
FAX: (703) 528-4145
afop@afop.org