

# Roybal-Allard Reintroduces CARE Act

Hoping to better protect the nation's farmworker children, Rep. Lucille Roybal-Allard (D-Calif.) on July 27 reintroduced the Children's Act for Responsible Employment (CARE Act). The bill, H.R. 3482, addresses the inequities and harsh conditions faced by the estimated 500,000 children currently employed in agriculture in the U.S. It was originally introduced in 2001 by Senator Tom Harkin (D-Iowa) and Rep. Roybal-Allard.

The CARE Act, which would not impact children working on their family's farm, would amend the Fair Labor Standards Act of 1938 (FLSA) and bring the age and work hour standards for children working in agriculture up to the standards set under FLSA for children working in other industries.

"Shamefully, current federal labor laws exclude agriculture child laborers from the same work hour restrictions that protect children who work in retail sales, food service and gasoline stations," noted Rep. Roybal-Allard in a recent "dear colleague" letter to fellow members of Congress.

According to Ms. Roybal-Allard, legislative change is needed to protect farmworker children educationally. "Long work hours and fatigue impair children's ability to concentrate and stay awake, making it difficult for them to succeed in school," noted a statement from her office. "Many children simply do not attend school;

others fall through the cracks as they enter multiple school systems in one year when their family migrates."

## Bill Would End Agriculture Exemptions for Children

The FLSA establishes a normal working age of 16 outside of agriculture and 14 for agriculture. However, because of FLSA exemptions it's not uncommon to find children who are 12 and 13

work in the fields and would subject 14- and 15-year-olds to the same rule that currently governs work at that age in other industries—the work is permissible only to the extent that the Secretary of Labor determines that such employment will not interfere with the children's schooling or affect their health or well-being.

In the case of particularly hazardous work, the FLSA sets a minimum age of 16 in agriculture, but a minimum age of 18 in all other industries. The CARE Act would end this double standard as well.

"Child laborers, as young as 12 years of age, routinely carry heavy loads, climb ladders, and handle hazardous machinery resulting in severe physical injuries," noted Rep. Roybal-Allard. "Many children work in fields with pesticides that have been associated with blood disorders, abnormalities in liver and kidney function and even cancer."

Ms. Roybal-Allard observed that although only 8 percent of all young workers are employed in agriculture, 40 percent of the work-related deaths of children and adolescents under the age of 18 occurred in agriculture.



*Rep. Lucille Roybal-Allard has been a leader on the child labor issue in the House.*

years old working in hand harvest crops like onions, cherries, and blueberries. Occasionally, even younger children are found working in the fields.

The Care Act would make it illegal for children under 14 to

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The CARE Act would also increase the maximum civil monetary penalties for child labor violations from \$11,000 to \$50,000 and increases maximum criminal penalties from six months to five years imprisonment.

The act would also raise to \$100,000 the maximum penalty for willful or repeat violations that lead to death or serious injury for a child worker.



*Juan (in the foreground), 13, and his brother Miguel, 12, cut onions in a field in Gilchrist, Colorado in August 2005.*

“These increased penalties will serve as a stronger deterrent for employers who violate child labor laws,” said Roybal-Allard. “The President also supports an increase in penalties and has recommended these changes in his Fiscal Year 2005 budget proposal.”

Rep. Roybal-Allard’s legislation would require greater data collection on work-related injuries, illnesses, and deaths to children under age 18 in agriculture, as well as an annual report by the Secretary of Labor on child labor in the U.S.

The legislation would authorize 100 additional inspectors to be added to the Department of Labor’s Wage and Hour Division (WHD), which is charged with detecting violations and enforcing child labor laws. It would increase by 10 percent the number of prosecutors in the office of the Solicitor of Labor.

As of April 2005, said Roybal-Allard’s office, Labor’s WHD only had 757 investigators who enforce labor laws across the country, but who dedicated less than 5 percent of their time to child labor.

The extra inspectors are needed in part because the bill asks DOL to expand its inspections to increase pesticide protection for workers in the fields. Labor department investigators would be asked to enforce the Worker Protection Standard during their field investigations.

### **Bill Would Reauthorize DOL Migrant Youth Program**

To address education needs of farmworker youth, the bill authorizes \$10 million for farm worker youth programs, re-authorizing programs that the Department of Labor allowed to expire in 2004.

“Children working on our nation’s farms are being left be-

hind in education,” noted Roybal-Allard. “At least 50 percent of children working in agriculture never graduate from high school.”

The DOL migrant youth programs provided school retention services like tutoring, mentoring, computer instruction, and academic and vocational counseling.

“These programs operated effectively in 31 states helping thousands of farmworker children stay in school and catch up with their peers,” noted David Strauss, executive director of the Association of Farmworker Opportunity Programs and a supporter of the legislation. “The youth programs are sorely missed.”

### **Controversial Provision Cut**

In its latest incarnation, the CARE Act has been stripped of some of its more controversial provisions—including the right of individuals to sue child labor violators—to help the legislation overcome the objections of the grower community.

“Rep. Roybal-Allard has crafted a bill that growers should find easier to accept than earlier versions,” noted Strauss. “It’s time for the grower community to do the right thing and support this legislation. We look forward to working with them to protect children.”

According to Senator Harkin’s office, he plans to introduce a Senate version of the CARE Act this year. 

# Press Conference Focuses Attention On Children In the Fields and the CARE Act

On August 30, the Association of Farmworker Opportunity Programs, the National Consumers League, and the Child Labor Coalition held a press conference at the National Press Club in Washington, D.C. to publicize the plight of the nation's child farmworkers.

Three former child farmworkers—Norma Flores, recently a migrant, Hector Flores, president of the League of United Latin American Citizens (LULAC), and Linda Chavez Thompson, a Vice President of the AFL-CIO—all offered vivid testimony of the arduous life of a child laborer in the fields.

Linda Chavez Thompson, executive Vice President of the AFL-CIO, noted that child farmworkers often work 12 hours a day in the fields and said that their “health is often damaged permanently by dangerous pesticides.”

Chavez-Thompson said she worked from the ages of 13-19 hoeing cotton. “No child should have to work like I did,” she said. “I’d like to tell you that this no longer happens in America but I cannot.”



*Linda Chavez-Thompson spoke about her experiences as a child farmworker.*

She noted that exemptions in child labor law allow children to work unlimited hours in the fields when school is not in session. Other working children cannot work at such young ages, she added. “It is a terrible double standard. It’s not right and it’s not fair.”

Chavez-Thompson said that she and the AFL-CIO are supporting the Children’s Act for Responsible Employment, which was recently introduced to end the double standard.



*Hector Flores said it was time to end the double standard that allows farmworker children to work at younger ages*

LULAC’s Hector Flores told reporters that he migrated as a child farmworker from his home state of Texas. He recalled working crop rows that were so long “you could not see the end,” he said. Back then, he added, there were often no portable bathrooms for the workers and planes “were actually spraying the fields as we were picking.”

He recalled working for 50 cents an hour and climbing ladders to pick cherries for 10 to 12 hours a day. “I don’t think we got a square deal,” he observed.

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## AFL-CIO's Linda Chavez-Thompson Recalls Her Childhood in the Fields

*The following is Linda-Chavez Thompson's statement at the August 30th Children in the Fields Press conference put on by AFOP, the National Consumers Leagues, and the Child Labor Coalition:*

I'm Linda Chavez-Thompson, the executive vice-president of the AFL-CIO.

I am here on behalf of the millions of proud members of the AFL-CIO — the women and men who build our homes, type our letters, fight our fires, and teach our kids.

Today, I'm delighted to announce that we're giving our full support to the Children's Act for Responsible Employment, which has been introduced by Representative Lucille Roybal-Allard.

We're supporting this bill because of the hundreds of thousands of children — no one knows exactly how many — who work in fields and orchards across the country.

They often work 12-hour days, picking cantaloupe and lettuce, weeding cotton fields, climbing rickety ladders in cherry orchards, stooping low over chili plants, pitching heavy watermelons, hour after hour.

Their health is often damaged permanently by dangerous exposure to pesticides that have an even greater effect on children than on

adults, and they are often crippled and sometimes even killed in accidents with heavy equipment, or falls from ladders, or sharp knives.



*Linda Chavez-Thompson when she was a child farmworker.*

These kids have precious little chance of staying in school, little chance of using their talents and moving ahead, little chance of a brighter future.

I know what it's like.

I grew up in west Texas as the daughter of cotton sharecroppers, and beginning when I was 10 years old, I spent every summer weeding cotton, Monday

through Friday, 10 hours a day.

When other kids were on the playground or taking vacations, I was working in 90 and 100 degree heat in the cotton fields.

I started out making 30 cents an hour, and eventually, by the age of 19, I earned one dollar an hour.

At the age of 15, my father took me out of school, and I started both hoeing and picking cotton on a full-time basis.

No child should have to work like I worked.

I'd like to tell you that this no longer happens in America — but I can't.

What kind of legal protection is there for kids who work in the fields?

With all the problems and all the suffering these kids face, the fact is that they actually have *less* legal protection than kids in other workplaces.

For instance, as David [Strauss] mentioned earlier,

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under the Fair Labor Standards Act, children working on farms can be employed at a lower age — 12 years old — than in other workplaces.

There's no limit on how many hours they may work.

There's no requirement that they be given overtime pay.

And they can be put in hazardous work two years earlier than in other workplaces.

It is a terrible double standard — one standard for kids who work for McDonald's or a shop in the mall, and another standard for kids who work for a farm or orchard.

It's not right.

It's not fair.

The Children's Act for Responsible Employment would

help change that by giving kids who work in corporate agriculture the same kind of protections that kids have in other workplaces.

Teenagers would need to be at least 16 years old to work in the fields, and at least 18 to perform work that is especially hazardous.

The bill would also give children working on farms greater protection against pesticide exposure, and it would expand their opportunity to get an education and graduate from high school.

We now know that most Americans support changes like this.

As we're hearing from [Darlene Adkins'] report today, the important new survey from the National Consumers League shows that a big majority of Americans

support equal treatment of children working on farms, and they say child labor is a big concern for them as consumers.

But powerful agribusiness interests want to keep things just as they are, so change will not be easy.

It will take the effort and energy and vision of all of us — whether we're in unions, or the consumer movement, or government, or the human rights community.

I promise here and now that we in the union movement will do everything we can to pass the Children's Act for Responsible Employment, and we will join with our friends and allies to make a land where the blight of child labor is finally brought to an end and justice is finally done. 

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Flores said that although his experiences were both positive and negative, he feared children were being harmed educationally by migrant work. He cited astronomical migrant drop out rates, which he said reaches 70 or 80 percent in some schools, and explained that migrating causes many students to miss portions of the school year.

He agreed with Chavez-Thompson that the agricultural child labor exemption should be

ended and pledged the support of LULAC's 600 chapters.

Norma Flores (no relation to Hector), age 20, told reporters that she migrated with her family throughout her childhood, starting work in the fields full-time when she was 12. Before that, she helped her family by bringing them water and harvesting supplies. "I already had experience out there," she said.

She recalled living in converted chicken coops and hav-

ing outhouses for bathrooms as recently as 1999.

She said that the work was hard and the work week often stretched to 80 hours. "With us, there was no weekend, no spring break."

She added that her family would often return two months after the school year began in her home state of Texas. Although she attended school in

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northern states, the credits rarely counted. She struggled to catch up with the help of farmworker youth programs that no longer exist today.

With lots of hard work and very supportive parents, she was able to succeed in school and is now attending college. But for the average migrant, she said, the path is very difficult: "It's very disheartening."

Flores said she believed that the fields were not a proper environment for young child workers. "I was exposed to so much stuff. I don't think it's right."



*Norma Flores responds to a reporter's question.*



*David Strauss called the agricultural child labor exemptions a form of discrimination.*

She noted that even today there are not always bathroom facilities, and portable bathrooms are often filthy or lacking toilet paper.

She said that when you detassel a mile-long row of corn,

you often end up going without water for long periods of time.

She also challenged the legal double standard that allows 12- and 13-year-olds to work in the fields. "I wouldn't have been allowed to work at WalMart," she said.

Darlene Adkins, a vice president with the National Consumers League and the director of the Child Labor Coalition, released the results of a consumer survey that found broad support for equal legal protection for farmworker children.

The survey found that only 4 percent of Americans thought it appropriate for their own children to work in the fields.

Adkins said that the Child Labor Coalition and the National Consumers League supported the CARE Act and she noted that farmworkers need a living wage so they can survive without their children's income.

David Strauss, executive director of the Association of Farmworker Opportunity Programs, called the agricultural child labor exemptions a form of "discrimination that is legal in America today."

"We hope and plead with the White House to join this effort to equalize the laws," said Strauss. He asked Congress to support the latest, stream-lined version of the CARE Act, "because it is the right thing to do." 