By: Morgan Jasko

Child labor is alive in the United States. Almost a century after the 1938 Fair Labor Standards Act was passed and despite numerous amendments, loopholes still remain that allow young children to work for excessive hours in dangerous environments with unfair compensation. The agricultural field, more precisely the tobacco industry, has benefited from child labor due to the shortcomings of the Fair Labor Standards Act.

Currently, there is no set age at which a child can begin working in tobacco fields. Children under twelve can work in any "agricultural field" defined in 29 U.S.C. § 203(f) as long as they have parental consent and the work is done "on a farm where employees are exempt from the Federal minimum wage provisions." Provisions for all children under the age of sixteen are that they must have parental consent and work outside of school hours. Most states do not have a limit on the total number of hours children under sixteen can work outside of school. This means children can attend school until 3:00 p.m., and work in tobacco fields for ten hours following school, if that is what is needed of them. Children over sixteen do not need parental consent and do not have fixed hours by which they are limited, which means they are even free to work during school hours.

Children over sixteen may perform any agricultural job, including dangerous work. This includes operating heavy machinery, and sharp or dangerous tools. Despite regulations that prevent children under sixteen from performing hazardous tasks, these children are still exposed to health risks such as extreme heat, dehydration, pesticides, nicotine poisoning, etc. Furthermore, compensation for these children is minimal. For the first ninety days of employment, persons under twenty-years-old may be paid $4.25 per hour, and following the first ninety days are only required to be paid the "statutory minimum wage" with no overtime provisions.
The children who are working in the tobacco fields are typically immigrants or children of immigrants whose labor is needed to help provide for their families. Most child laborers are working fifty to sixty hours a week in these fields under these dangerous and poorly regulated conditions.

These children need protection. Currently, Congresswoman Lucille Roybal-Allard has introduced House Bill 2764 to Congress on June 12, 2015, also known as the CARE Act, has been presented to Congress six times since 2001, but has never been adopted. The CARE Act is on its seventh attempt to be passed by Congress and is currently waiting to be reported on by the committee before the Congressional vote. If passed by Congress, the CARE Act would introduce new penalties for child labor violations, a revised age requirement for agricultural workers, an expanded definition of oppressive child labor, and more. Senator Dick Durbin and Congressman David Cicilline have introduced the “Children Don’t Belong on Tobacco Farms Act” with the hope of preventing children under eighteen-years-old from being able to work in tobacco fields. The CARE Act and the “Children Don’t Belong on Tobacco Farms Act” are hopeful steps towards stricter regulations for child labor in agricultural employment.

[iv] Id.
[v] Id.
[vi] Id.
[vii] Id.
[viii] McLaughlin, supra note ii.
[ix] Id.
[xii] Wurth & Buchanan, supra note x.
[xiii] Zach Mihlik & Gabi (N. Brandon), Back to school or back to the fields? The HII (Aug. 11, 2015, 11:00 PM), http://thehill.com/stories/428774-back-to-school-or-back-to-the-fields.
[xv] Id.
[xvi] Id.
[xvii] Id.
[xviii] Id.
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