

**H.R. 1943, LEGISLATION
AMENDING THE FAIR LABOR
STANDARDS ACT TO PERMIT
CERTAIN YOUTH TO PERFORM
CERTAIN SPECIFIED WORK**

HEARING

BEFORE THE
SUBCOMMITTEE ON WORKFORCE PROTECTIONS
OF THE
COMMITTEE ON EDUCATION
AND THE WORKFORCE
U.S. HOUSE OF REPRESENTATIVES
ONE HUNDRED EIGHTH CONGRESS

FIRST SESSION

October 8, 2003

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LABOR STANDARDS ACT TO PERMIT
CERTAIN YOUTH TO PERFORM CERTAIN
SPECIFIED WORK**

October 8, 2003

U.S. House of Representatives
Subcommittee on Workforce Protections
Committee on Education and the Workforce
Washington, DC

The Subcommittee met, pursuant to notice, at 10:35 a.m., in Room 2175, Rayburn House Office Building, Hon. Charlie Norwood [Chairman of the Subcommittee] presiding.

Present: Representatives Norwood, Biggert, Owens, Kucinich, Majette, and Payne.

Staff present: Jim Paretti, Professional Staff Member; Donald McIntosh, Staff Assistant; Ed Gilroy, Director of Workforce Policy; Loren Sweatt, Professional Staff Member; Chris Jacobs, Staff Assistant; Kevin Frank, Professional Staff Member; Deborah L. Samantar, Committee Clerk/Intern Coordinator. Peter Rutledge, Minority Senior Legislative Associate/Labor; Maria Cuprill, Minority Legislative Associate/Labor; Margo Hennigan, Minority Legislative Assistant/Labor.

Chairman NORWOOD. A quorum being present, the Subcommittee on Workforce Protections of the Committee on Education and the Workforce will come to order.

We are meeting here today to hear testimony on H.R. 1943, legislation amending the Fair Labor Standards Act to permit Amish youth to perform certain specified work. Under Committee Rule 12(b), opening statements are limited to the Chairman and the Ranking Minority Member of this Subcommittee. Therefore, if other Members have statements, they may be included in the hearing record.

With that, I ask unanimous consent for the hearing record to remain open 14 days to allow Members' statements and other extraneous material referenced during the hearing to be submitted in the official hearing record. Without objection, so ordered.

In keeping with the tenets of their faith, our witnesses from the Amish community have asked that they not be photographed or videotaped during our hearing today. Out of respect for these beliefs, today's hearings will not be broadcast over the Internet, and

we have arranged with Subcommittee staff to ensure that our witnesses are not videotaped or photographed this morning.

I would ask and expect the same cooperation of any journalist present today that witnesses Blank and Burkholder not be photographed or videotaped during this morning's hearing. The Subcommittee greatly appreciates your cooperation.

STATEMENT OF HON. CHARLIE NORWOOD, CHAIRMAN, SUBCOMMITTEE ON WORKFORCE PROTECTIONS, COMMITTEE ON EDUCATION AND THE WORKFORCE

Good morning. The legislation before us today, H.R. 1943, would amend the Fair Labor Standards Act of 1938 to provide that certain youth whose religious faith and beliefs dictate that they learn by doing are afforded an opportunity to do so, and that the Federal Government, however well-meaning, does not endanger the belief and culture of these young people and their families.

Specifically, we will hear today about how the Fair Labor Standards Act provisions regarding child labor threaten the way of life of Amish youth. Now some of my colleagues may know, and our witnesses today will certainly explain, that in the Amish tradition, formal education ends at the eighth grade. Thereafter, with the support of their families and communities, Amish youth—Amish young people are expected to further their education through hands-on training or learning by doing.

Now for many years, that training and learning came in agriculture and family farming. The Fair Labor Standards Act recognizes that and provides fairly broad exceptions for youth working in agriculture and on family farms. But in recent years, with the decline of agriculture, more and more Amish families have turned to carpentry and woodworking as a source of their employment and as a source of training for their young people.

And there is where the FLSA has presented obstacles by prohibiting 14- to 18-year-olds from working in such facilities. In the recent past, several Amish sawmills in Pennsylvania, Ohio, and other states have faced thousands of dollars of fines for training their young people in accordance with their beliefs. Now many of these folks may never have known that these prohibitions even existed, but now that they are aware, they are justifiably concerned that these laws, however well-intentioned, truly jeopardize their way of life.

H.R. 1943 seeks to address this threat by making narrow, common sense changes to the FLSA while maintaining necessary workplace safety and health protections. As some of my colleagues will remember, this is not the first time the Subcommittee has addressed this matter. Indeed, in both the 106th and 105th Congresses, we were able to pass this legislation through Subcommittee, Full Committee and on the House Floor with strong bipartisan support.

Unfortunately, in both of these Congresses, our colleagues in the other body did not take action on this measure. I raise this point today not only to refresh our collective memories but also to express my hope that we might work in a similar bipartisan fashion in moving this bill through the legislative process this year.

I also would say that because this legislation has been through the Committee process several times in years past, it has been refined and perfected to address concerns that were raised in earlier considerations. For example, the bill includes numerous provisions to protect the safety of Amish youth who work in these wood-working facilities. Requirements that a minor working in these facilities be supervised by an adult relative or other sect member, requirements that minors are adequately protected by appropriate workplace barriers or distance from machinery, and a strict prohibition on any minor operating any power woodworking machinery.

Finally, I know in years past there has been concern that this legislation may raise Constitutional concerns. Again, we have worked to address those, and I am confident that the end product before us today, which is a narrowly tailored, common sense measure, passes Constitutional muster.

[The prepared statement of Chairman Norwood follows:]

Statement of Hon. Charlie Norwood, Chairman, Subcommittee on Workforce Protections, Committee on Education and the Workforce

Good Morning.

The legislation before us today, H.R. 1943, would amend the Fair Labor Standards Act of 1938 to provide that certain youth whose religious faith and beliefs dictate that they "learn by doing" are afforded an opportunity to do so, and that the federal government—however well-meaning—does not endanger the belief and culture of these young people and their families.

Specifically, we will hear today about how the Fair Labor Standards Act's provisions regarding child labor threaten the way of life of Amish youth. Now some of my colleagues may know, and our witnesses today will certainly explain, that in the Amish tradition, formal education ends at the eighth grade. Thereafter, with the support of their families and communities, Amish young people are expected to further their education through hands-on training or "learning by doing."

Now for many years that training and learning came in agriculture and family farming. The Fair Labor Standards Act recognizes that, and provides fairly broad exceptions for youth working in agriculture and on family farms. But in recent years, with the decline of agriculture, more and more Amish families have turned to carpentry and woodworking as a source of employment, and as a source of training for their young people. And there is where the FLSA has presented obstacles by prohibiting 14- to 18- year olds from working in such facilities.

In the recent past, several Amish sawmills in Pennsylvania, Ohio and other states have faced thousands of dollars of fines for training their young people in accordance with their beliefs. Now many of these folks may never have known that these prohibitions even existed—but now that they are aware, they are justifiably concerned that these laws—however well-intended—truly jeopardize their way of life.

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Finally, I know in years past there has been concern that this legislation may raise constitutional concerns. Again, we have worked to address those, and I am confident that the end product before us today, which is a narrowly-tailored, common-sense measure, passes constitutional muster.

We are honored to have with us the sponsor of this legislation, our colleagues, Mr. Pitts of Pennsylvania and Mr. Souder of Indiana, as well as representatives of the Amish community, who will explain both the role of their faith, and the difficulties they have encountered under the Fair Labor Standards Act far better than I could hope to do. I also look forward to hearing the testimony of our Minority's witness, Mr. Clark. I welcome each of you, and with that would yield to my distinguished colleague from New York for any opening remarks he would care to make.

We are honored to have with us the sponsors of this legislation, our colleagues, Mr. Pitts of Pennsylvania and Mr. Souder of Indiana, as well as representatives of the Amish community who will explain both the role of their faith and the difficulties they have encountered under the Fair Labor Standards Act far better than I could ever hope to do.

I also look forward to hearing the testimony of our minority witness, Mr. Clark. I welcome each of you, and with that would yield to my distinguished colleague from New York for any opening remarks he might wish to make. Mr. Owens?

**STATEMENT OF HON. MAJOR R. OWENS, RANKING MEMBER,
SUBCOMMITTEE ON WORKFORCE PROTECTIONS, COM-
MITTEE ON EDUCATION AND THE WORKFORCE**

Mr. OWENS. Thank you, Mr. Chairman. Let me begin by saying that I am gratified to see that Mr. Pitts has included the 1998 amendments to his original bill. The amendments provide additional protection to minors working in these most dangerous settings. However, while these changes improve the bill, they do not perfect it. H.R. 1943 permits children as young as 14 to work in one of the most hazardous industries in the country. The occupational fatality rate in the lumber and wood products industry is five times higher—five times higher—than the national average.

According to the July 2003 National Institute of Occupational Safety and Health Alert, which is entitled “Preventing Deaths, Injuries, and Illnesses of Young Workers,” an average of 67 young workers under the age of 18 died from work-related injuries each year during 1992 to 2000.

The report goes on to say that more than 30 percent of all fatal injuries to young workers occurred in family businesses, and that in 1998 an estimated 77,000 young workers required treatment in hospital emergency rooms. However, information from national surveys also indicates that only one-third of work-related injuries are seen in emergency rooms. Therefore, it is likely that nearly 230,000 teens suffered work-related injuries that year.

This report also gives 11 cases as examples of the risks young workers face while at work in a number of industries. Among these they cite the case of the 17-year-old worker crushed to death at a salvage lumber business when the forklift he was operating overturned.

Sawmills are extremely hazardous work environments. Workers have been killed when loads fell off of forklifts. They have been suffocated by sawdust. They have been killed as a result of boards being kicked out of saws.

Mr. Burkholder, I still remember your 1998 testimony on behalf of this legislation when you told us how you lost the tip of your finger during a moment of inattention. This happened to you, an adult. What could possibly have happened to a child of 14 years? I cringe to think of children working in that kind of dangerous environment.

Inexperience, smaller size, and lack of maturity all serve to make the potential risks faced by minors even greater than they are for adults. Governments make an assumption that children have to have special protections, and that is something that is usually not challenged, the government's prerogative to try to protect children. I do not think it is reasonable to expect a 14-year-old to maintain a kind of continuous safety concern that we would expect of adults. In this industry, a moment of inattention can be fatal.

The child labor laws serve two vital purposes. First, the child labor laws are intended to ensure that children are not employed in circumstances that are unduly hazardous to their health. I do not mean to imply that the proponents of this legislation are indifferent to the health and safety of their children. I understand the concern that children be employed in occupations common to the Amish community. However, to employ children in an industry where the occupational fatality and injury rates are as high as those in this particular industry are, in my view, just asking for trouble.

The second purpose of the child labor laws is to protect the income of workers by ensuring that adults do not have to compete for their employment with children who do not yet have the burden of supporting themselves. This bill flies in the face of that important public policy. Further, this bill creates an exception whereby an employer may employ Amish youth but no others. Creating an incentive for employers to hire Amish youth over workers of other religious faiths not only raises Constitutional questions, but also places the Department of Labor in the position of having to document a worker's religion. I do not think that kind of policy is either wise or fair.

I yield the balance of my time, Mr. Chairman.

Chairman NORWOOD. Thank you, Mr. Owens. It is now my honor to introduce to the Subcommittee two of our esteemed colleagues present with us today. On behalf of the Members of the Subcommittee and myself, I want to thank them for being here as well, thank each of our witnesses on our panel today for testifying on this very important issue.

All of us know, but I'd like to introduce, the Honorable Joseph R. Pitts, who serves the 16th Congressional District of Pennsylvania. Mr. Pitts. The Honorable Mark Souder, who represents the Third Congressional District of Indiana. Mr. Souder, we're delighted to have you. Mr. Christ K. Blank, who is Chairman of the Older Order Amish Steering Committee, and he's here from Pennsylvania. Nicholas Clark, who is Assistant General Counsel, United Food and Commercial Workers of AFL-CIO. Welcome, Mr. Clark. And Mr. William Burkholder, who has C.B. Hardwood Lumber Company in Pennsylvania.

Gentlemen, we generally ask our witnesses to stay at about five minutes. There is a clock or a red/yellow/green light in front of you,

and I'll ask you to try to stay within the five minutes. I know some of you have come a long way, and I hate to cut witnesses off. So work with me if you would and try to stay within that timeframe. With that, I'd like to recognize Mr. Pitts.

**STATEMENT OF HON. JOSEPH R. PITTS, A REPRESENTATIVE
IN CONGRESS FROM THE STATE OF PENNSYLVANIA**

Mr. PITTS. Thank you, Mr. Chairman. Thank you for holding this important hearing. I'll submit my entire statement for the record and also testimony from Mr. Herman Bontrager, Secretary-Treasurer of the National Committee for Amish Religious Freedom, for the record.

Mr. Chairman, I appreciate the opportunity to testify on the cultural and employment needs of the Amish youth.

This is a critical issue for the Amish, who reside in 33 states and in 115 congressional districts. My home state of Pennsylvania ranks first in the nation in the total number of Amish adherents, with over 43,500, and more than half live in my district, the 16th Congressional District.

People around the world know of the Old Order Amish as a people who till their land and direct their lives with faith, simplicity, and discipline.

Traditionally, Amish communities are centered around the family farm, which requires participation from the whole family. While caring for crops and animals, Amish parents show their children how to make a living without exposure to outside influences that contradict their beliefs.

However, a high growth rate and the soaring price of farmland have forced the Amish to look for alternatives to farming. Now Amish can be found in small businesses making raw lumber, clocks, wagons, cabinetry, and quilts. Therefore, as they did on the family farm, the Amish now wish to have their youth work with them in these vocational settings. Typically the youth learn a trade after the completion of Amish school, or eighth grade.

The Amish view this work as part of their schooling, since they often accompany a parent to the workplace. And these apprenticeships are known as "learning by doing."

Unfortunately, these small, Amish-owned businesses have received costly fines, ranging up to \$20,000, from the Department of Labor for having their youth under the age of 18 work alongside their fathers and uncles, even in family businesses.

Mr. Chairman, a few years ago, an Amish businessman in my district was fined \$10,000 for having his own child in the front office of his business. And this 15-year-old teenager was simply learning to use the cash register alongside her father—she was far from harm's way. But there was a machine in the back of the shop.

Actions such as these by the Department of Labor have severely threatened the lifestyle and religion of this respected and humble community. Amish youth are already exempt from state laws making school attendance mandatory when they have finished the eighth grade and are 14 years old, and they are permitted to work more hours than would normally be the case and work during traditional school hours. Additional, minors working in agriculture are totally exempt from child labor laws.

The Amish expect diligence, responsibility, and respect from their Community Services Block Grant. They do not contribute to the social ills of society. They do not accept any assistance from any government programs. Our government should not interfere with this humble community.

Some of my colleagues, along with our Amish constituents, have met with the Department of Labor over the past several years to try to find a solution to the problem. In fact, a group of officials from the Department of Labor joined me in touring two Amish-owned woodworking businesses this May to observe the conditions under which Amish youth would be allowed to work if H.R. 1943 is enacted.

Unfortunately, the Department of Labor has repeatedly indicated that there is no regulatory administrative solution, and so we have to deal with this through legislation.

The Amish have a very unique situation. They complete their formal schooling at the end of eighth grade. They are prohibited by their religious beliefs from attending school beyond this point. As such, they do not have the benefit of or access to shop class or "vo-tech" programs that many of our youth have.

We have a responsibility to evaluate the Amish in this unique light. And this narrow legislation will only allow young adults supervised by an adult relative or an adult member of the same religious sect to work in places of business where machinery is used to process wood products.

It requires young adults have adult supervision. It prohibits them from operating or assisting in the operation of power-driven woodworking machinery, and as a father and grandfather myself, I can assure you I have no desire to put any young person in harm's way. So my legislation provides key safety provisions for the Amish youth that Mr. Owens mentioned that we accepted his amendments a couple of years ago.

The youth must be protected from wood particles or flying debris, maintain a sufficient distance from machinery in operation, and required to use personal protective equipment to prevent exposure to excessive levels of noise and sawdust.

Mr. Chairman, many communities, like Lancaster County, of my district, greatly appreciate the heritage and work ethic of the Amish. We wish to keep them as part of our communities.

However, if the Amish continue to be fined by the Federal Government, they could be driven out of our communities, and their strong heritage will be undermined by governmental interference.

So in conclusion, let me ask a simple question: Is it more dangerous to be in a woodworking shop—150 feet away from any power equipment, sweeping sawdust, stacking lumber, working on a cash register—than it is to have the Federal Government destroy the ability of a religious community to teach its children a work ethic that is culturally appropriate?

I urge this Subcommittee to help protect the Amish heritage.

Mr. Chairman, again, thank you for inviting us to present testimony, and I'd be happy to answer any questions. I'm sure Mr. Blank and Mr. Burkholder, who join us, could give specific details regarding this issue.

Thank you.

[The prepared statement of Mr. Pitts follows:]

Statement of Hon. Joseph R. Pitts, a Representative in Congress from the State of Pennsylvania

Thank you, Mr. Chairman for holding this important hearing today. I appreciate the opportunity to testify on the cultural and employment needs of Amish youth.

This is a critical issue for the Amish, who reside in at least 33 states and 115 Congressional districts. My home state of Pennsylvania ranks first in the nation in the total number of Amish adherents, with over 43,500. More than half, 23,890, live in the 16th Congressional District, which I represent.

People around the world know of the Old Order Amish as a people who till their land and direct their lives with faith, simplicity, and discipline.

Traditionally, Amish communities are centered around the family farm, which requires participation from the whole family. While caring for crops and animals, Amish parents show their children how to make a living without exposure to outside influences that contradict their beliefs.

However, a high growth rate and the soaring price of farmland have forced the Amish to look for alternatives to farming. Now, Amish can be found in small businesses making raw lumber, clocks, wagons, cabinetry, and quilts.

Therefore, as they did on the family farm, the Amish now wish to have their youth work with them in these vocational settings. Typically the youth will learn a trade after the completion of Amish school, or eighth grade.

The Amish view this work as part of their schooling; since they often accompany a parent to the workplace. These apprenticeships are known as "learning by doing."

Unfortunately, these small, Amish-owned businesses have received costly fines, ranging up to \$20,000, from the Department of Labor for having their youth under the age of 18 work alongside their fathers and uncles, even in family businesses.

Mr. Chairman, a few years ago, an Amish businessman in my Congressional district was fined \$10,000 for having his own child in the front office of his business. This teenager was simply learning to use the cash register alongside her father—she was far from harm's way.

Actions such as these by the Department of Labor have severely threatened the lifestyle and religion of this respected and humble community.

Amish youth are already exempt from state laws making school attendance mandatory when they have finished eighth grade and are 14 years old, and they are permitted to work more hours than would normally be the case and to work during traditional school hours. Additionally, minors working in agriculture are exempt from child labor laws altogether.

The Amish expect diligence, responsibility, and respect from their youth. They do not contribute to the social ills of our society, and they do not accept any assistance from government programs.

Our government should not interfere with this humble community.

Some of my colleagues, along with our Amish constituents, have met with Department of Labor officials over the past several years to try and find a solution to this problem.

In fact, a group of officials from the Department of Labor joined me in touring two Amish-owned woodworking businesses this May to observe the conditions under which Amish youth would be allowed to work if H.R. 1943 is enacted.

Unfortunately, the Department of Labor has repeatedly indicated that a regulatory or administrative solution is not possible, and so we have been forced to pursue a legislative solution.

The Amish have a very unique situation. They complete their formal schooling at the end of the eighth grade, and are prohibited by their religious beliefs from attending school beyond this point. As such, they do not have the benefit of or access to "shop" class or vo-tech programs that our youth have.

We have a responsibility to evaluate the Amish in this unique light.

That is why I, along with numerous other Members, introduced H.R. 4257, legislation to address the employment needs of Amish youth, on July 16, 1998. It passed the House by voice vote on September 28, 1998; however, the Senate did not move on this legislation before the end of the 105th Congress.

I then reintroduced the bill as H.R. 221 on January 6, 1999. The bill passed the House by voice vote on March 2, 1999, but, again, the Senate did not take action before the close of the 106th Congress.

The legislation was reintroduced on July 25, 2001 as H.R. 2639 in the 107th Congress; however, without a commitment from the Senate to push companion legislation, H.R. 2639 was not brought to the House floor for a vote.

It is with great hope that I, along with Sen. Arlen Specter, reintroduced this legislation in the 108th Congress on May 1, 2003. Sen. Specter's bill, S. 974, is currently before the Committee on Health, Education, Labor, and Pensions.

This narrow legislation will only allow young adults supervised by an adult relative or by an adult member of the same religious sect to work in places of businesses where machinery is used to process wood products.

My legislation requires that young adults have adult supervision, and it prohibits them from operating or assisting in the operation of a power-driven woodworking machine.

As a father and grandfather myself, I can assure you that I have no desire to put any young person in harm's way, and so my legislation provides key safety protections for Amish youth.

The youth must be protected from wood particles or other flying debris; maintain a sufficient distance from machinery in operation; and are required to use personal protective equipment to prevent exposure to excessive levels of noise and saw dust.

Mr. Chairman, many communities, like Lancaster County, Pennsylvania, of my district, greatly appreciate the heritage and work ethic of the Amish, and we wish to keep them as a part of our communities.

However, if the Amish continue to be fined by the Federal government, they could be driven out of our communities, and their strong heritage will be undermined by governmental interference.

In conclusion, let me ask a simple question:

Is it more dangerous to be in a woodworking shop—150 feet away from any power equipment, sweeping sawdust, stacking lumber, or working a cash register—than it is to have the Federal government destroy the ability of a religious community to teach its children a work ethic that is culturally appropriate?

I urge this Subcommittee to help protect the Amish heritage.

Mr. Chairman, thank you for inviting me to this hearing. I'll be happy to answer any questions, and I am sure that Mr. Blank and Mr. Burkholder, who join us today, can give you specific details regarding this issue.

Chairman NORWOOD. Thank you very much, Mr. Pitts.
Mr. Souder, you are now recognized for five minutes.

**STATEMENT OF HON. MARK E. SOUDER, A REPRESENTATIVE
IN CONGRESS FROM THE STATE OF INDIANA**

Mr. SOUDER. Thank you. And I ask unanimous consent to put my full statement in the record.

Chairman NORWOOD. So ordered.

Mr. SOUDER. And I have a little bit of an unusual personal background. One of my brief moments of fame is I was listed in the New York Times crossword puzzle as what Member of Congress has Amish roots. My great, great grandpa was one of the first Amish settlers in Indiana, in 1846. They came from Pennsylvania, walked across to Ohio, into Holmes County, then up to Archibald, and then down into Indiana.

My great grandfather left the Amish faith in about 1880, thereabouts, but I still have many relatives in the Amish community and grew up in a town surrounded by Amish and understand a lot of the problems, and there's lots of confusion about what's Amish, what's Mennonite, all the gradations. In my home area, for example, in the little town of 700, there are five to seven different Mennonite churches and different gradations of Amish. For example, the Amish around my home town can't marry anybody from the families in many of the towns in Pennsylvania because they're more liberal. They have tops on their buggies; they allow a pay phone on the porch. I come from a very old order Amish area, and then there are gradations within the Mennonite faith.

This only is tied to the Amish, which is a very defined subgroup that came out of the Mennonite tradition. Let me deal with another

question here, and that's understanding the geography of this challenge. The Amish basically are located in a belt that goes from just west of Philadelphia to the end of the fertile land in central Kansas and central Iowa. Pretty much if you take U.S. 30, go 14 and 24 around it, you will find the Amish belt. Because they don't use modern technology, they are limited, because it's heavily work-intensive. They use gasoline-powered equipment, kerosene-powered or other types of things. Some communities make slight adaptations so they can try to live and feed their families. But the options of where they can move are limited, given their religious fundamental beliefs.

So you see some pockets in Michigan, some pockets have moved up to Minnesota, a few in Southern communities, but they have more difficult times when the land is not as fertile as in the center of Illinois around Arcola, Illinois or in centers of Iowa, Indiana, and Pennsylvania.

Some go down to Brazil or other nations. It is, if you want to take a literal scriptural interpretation, it is hard to find a place to go as the suburban growth occurs in this good land for them.

Let me give you an illustration. Why don't they believe in pictures? The Bible specifically says, thou shall not have a graven image or likeness thereof. They take that literally. The church I grew up in, the Apostolic Christian Church, United Brethren in Christ, and others for years took that literally. But they take the Bible so literal that they believe that a picture today would be blasphemous. It would be a likeness thereof or something that God would create.

Their life is literally anchored in this. Because of that, their kids are not going in automobiles. It is strange; when the Amish hear the things about the dangers to their kids are going, man, we don't have our kids getting assassinated on the highways out there. They're not working in all kinds of other industries where they're put at risk. They have a very simple lifestyle. That furthermore, in the protections, and in my area I have the tenth-largest but also the second-largest settlements of Amish. The land is getting crowded. That basically their choices are, with all due respect to the Mennonites and United Brethren in Christ, which I currently am, their big fear is that their kids are going to become Mennonite or that they're going to drift away to these other denominations, because in order to get a job, they start having to go in vehicles away from their community, they start mixing with other people, they start listening to tapes, they start watching TV, maybe get a beer over here and there, and the next thing you know, they can't keep them in their families. And there's only so many times you can divide the farmland.

In a lot of my areas—and by the way, this is politically not the easiest thing to do, because those who are English don't necessarily want special advantages to the Amish, and they vote, and Amish generally speaking don't vote—but it's a question of can they survive? Are we going to give them the option to do woodworking, or do they have to leave their faith to go get other jobs, eventually get automobiles, eventually go to other professions that are far more dangerous? Then quite frankly, the apprenticeships that they seek, which are sweeping the floors, cleaning the windows, watching

their dad and their brothers work at the fringes, and where we can have a woodworking industry, which is very big in my region and is one of the primarily Amish craft things that they are now employed with, when they start to go into the housing area and they start to do things where they move out of their community where the business isn't right there, they'll leave the faith, probably half to three-quarters.

Their only chance really to sustain themselves is on the limited agriculture and the others. And I would ask those who don't fully understand these communities to understand that they're a minority, too, and their minority is fighting for their life in America and whether they continue as American citizens, and we need to give them some flexibility.

Thank you.

[The prepared statement of Mr. Souder follows:]

Statement of Hon. Mark E. Souder, a Representative in Congress from the State of Indiana

Mr. Chairman and Members of the Committee, I appreciate this opportunity to testify today regarding an issue of significant importance to the Amish population in my district—the employment needs of Amish youth. My colleague from Pennsylvania, Mr. Pitts, has pursued this issue for several years now, and I am grateful to him for his dedication. I am hopeful we can find a legislative remedy in this Congress to a problem that jeopardizes the culture and religion of the Amish people.

As representatives of Amish constituents, Congressman Pitts and I are rarely asked to provide any form of government assistance for this group of people. In the issue before us today, the Amish are asking for something quite basic to our Constitutional freedoms: religious liberty and the ability to live their lives according to their deeply held religious convictions. As with many groups of people, religious freedom is what brought the Amish to America, and, today it is our responsibility to protect this liberty, which is foundational to their entire way of life.

I am not a passive observer on these issues. Not only do I represent the 2nd and 10th largest “old order” Amish settlements in the country (about 40,000 altogether), but I am a direct descendent of one of the first Amish settlers in Northeast Indiana. In 1846, my great-great grandfather settled in the Hoosier state. While he left the faith and culture around the turn of the century, I still have relatives who continue to practice the Amish tradition. Furthermore, I was raised in a small town—Grabill, Indiana—which is surrounded by Amish families. Growing up, I had the unique opportunity to witness first-hand the traditions of this religious and cultural community.

Congressman Pitts first brought the issue before us today to my attention in 1997. I have been monitoring it closely ever since. Although the Amish in Northeast Indiana have not experienced the degree of conflict with federal labor laws as have the people of Pennsylvania and Ohio, the federal restrictions on teen labor are still an issue of much concern to my constituents. One Amish gentleman from my district participated in some of the first meetings we had with the Department of Labor under the previous Administration.

As you may know, the Amish culture places high value on a strong work ethic. Idleness and leisure are believed to breed vice, so the Amish raise their children at an early age to appreciate hard work. Amish children end their formal schooling after the eighth grade to participate in vocational training, most often apprenticeship programs in such fields as farming and wood working. While child labor laws do not apply to farming, they do apply to wood working shops.

In recent years, farming has become an increasingly difficult livelihood for many Amish—unplowed land is difficult to find and increasingly expensive, and competing with industrial farms that use heavy equipment is overwhelming to small Amish family farms. Many Amish families have been forced into corollary industries like arts & crafts, woodworking, home building, pallet building, and furniture making. This career shift from farming to wood working has led to new regulatory compliance violations for businesses employing Amish youth in wood working apprentice programs.

In recent years, several lumber facilities in Pennsylvania were heavily fined by the Department of Labor for employing Amish teenagers, aged 14–17 years. Some

of the cases in which the Labor Department assessed fines involved 14- and 15-year-olds who were working in a wood shop stacking objects and sweeping floors and were not in close proximity to machinery. Upon hearing of these problems, several of my colleagues and I met with Labor officials and Amish representatives to work out a remedy to this situation. Unfortunately, the Department of Labor under the previous Administration told us a regulatory remedy was not possible based on current law.

This impasse is what brings us here today to consider these issues. Current law must be clarified in order to continue the Amish tradition of providing teenagers with a practical education—one that allows them to work alongside their relatives and church family. The bill Congressman Pitts has introduced in this Congress, H.R. 1943, would allow Amish teenagers to continue to do certain jobs where machinery is used to process wood products. I am a cosponsor of this legislation and believe it is a fair compromise, representing several years of negotiations with the Department of Labor. In the 106th Congress, I was a cosponsor of Congressman Pitts' similar bill, H.R. 221, which passed the House of Representatives by unanimous consent.

Simply put, H.R. 1943 would allow Amish teenagers aged 14 through 18 to continue to work in woodworking facilities while including sound provisions to protect these young workers. As a father of three children—two of whom are of working age—I would never advocate for a bill placing teenagers in an unduly unsafe work environment. Safety provisions have been carefully considered and included in this legislation. The bill would require these young workers to be supervised by adults who know and care about them. It would also prohibit Amish youth from operating power-driven machinery and would require these teenagers to be protected from flying debris, excessive noise, and sawdust.

At the same time, this bill will preserve the traditional way of life of the Amish, whose youth finish their formal education by the eighth grade and then turn to a different style of religious, cultural, and "vocational" education. This bill would protect a truly endangered religion and culture that cannot afford to be trampled on by federal micro-management.

The Amish represent a unique segment of Americans that rely on self-sufficiency rather than assistance from government. They are a peace-loving people who came to America in the Anabaptist tradition to escape government regulation and persecution in order to practice their faith without government interference. Today, government bureaucracy is threatening the Amish people's very way of life. It is interfering with their religious freedom.

I urge my colleagues on this subcommittee and the larger Committee on Education and the Workforce to pass H.R. 1943 and send it to the House floor for quick approval. Let's not hinder the ability of the Amish to continue providing for themselves and their families, or to maintain their cultural and religiously-based "learn by doing" apprenticeships.

Again, thank you for inviting me to testify on this issue today.

Chairman NORWOOD. I would think the environmentalists would be for this bill. It would keep more cars off the highway.

Mr. Blank, we're delighted you're here, and the effort you made to come, and I want you to feel very welcome, and we're delighted to hear from you now, sir.

**STATEMENT OF CHRIST K. BLANK, CHAIRMAN, OLD ORDER
AMISH STEERING COMMITTEE - NATIONAL, KINZERS, PENN-
SYLVANIA**

Mr. BLANK. Thank you, Mr. Chairman. It is with appreciation, but humbleness, that we come before your Committee today. We wish to thank you for this opportunity to bring some of our concerns before you.

As Chairman of the Old Order Amish Steering Committee, I am speaking on behalf of the various Older Amish and Mennonite communities throughout the United States. Our concern is the infringement of these child labor laws on our way of life.

In recent years, our Committee has been getting more and more complaints of Amish and Mennonite businesses who have been fined for child labor violations, for allowing youth between age 14 and 17 to work in their various businesses.

As you undoubtedly know, the Amish way of life and religious beliefs prohibit formal education beyond the eighth grade level. Typically, the Amish youth complete their formal education at the end of eighth grade.

But their education does not stop there. Instead, they only begin to absorb with earnest the knowledge and the skills needed to earn a livelihood and support a family. Upon completion of the eighth grade, eight terms of elementary school, Amish children are enrolled in an informal vocational class of learning by doing under parent and church supervision to further prepare them to enter into the adult workplace. This informal vocational class is recognized by the United States Supreme Court ruling in *Wisconsin v. Yoder* as a legal alternative to the compulsory school attendance laws.

We recognize that historically the child labor laws have been lenient on farm labor, especially a family farm. For many years our livelihood was based largely on agriculture, and for many, still is. However, due to the high cost of our dwindling supply of farmland, more and more of our families are being forced to start small businesses such as woodworking shops, welding shops, sawmills, pallet shops, et cetera. This is in keeping with the Amish tradition of operating a family business so the family can work together.

This trend is gradually forcing more and more of our youth to learn other trades. And in our small woodworking shops, there are many occupations our youth would be capable of performing. However, more and more of our small woodworking shops are finding themselves in violation of the child labor laws. Under the present regulations, even the owner's own boy cannot legally work until age 16 in the manufacturing operation, or 18 in any occupation which the Secretary of Labor shall declare to be hazardous.

We have many Amish-owned and operated sawmills among our community, so our youth are well-qualified and capable for providing hand labor in stacking and sorting lumber as it comes away from the saws. This sorting and stacking operation usually occurs some distance from the saws themselves. However, under the present regulations, no one under age 18 can legally work in a sawmill building.

There seems to be a lot of government interest in finding ways to better prepare today's youth to enter today's workforce. Many states are drafting School to Work Acts, and it seems coincidental that at the same time these Amish are being fined for pursuing a system which has proved successful in preparing our youth for adulthood and to be respectful, self-supporting citizens.

In *Wisconsin v. Yoder*, Dr. Donald Erickson testified that the Amish system of learning by doing was the ideal system of education in terms of preparing Amish children for their life as adults in the Amish community.

We are not asking for, nor do we intend to operate, any type of sweat shop operations. We only desire to continue our own informal

vocational plan of learning by doing under parent and church supervision.

The only concerns we hear voiced often are the safety concerns for our children. We certainly share that concern. However, we question where is the greatest danger. We feel it very important to have our youth involved in productive activity in those formative years of age 14 through 17 under parent and church supervision rather than being out on the streets or sitting around home with nothing to do.

We strongly believe that the age 14 to 17 to be a very tender and receptive age in which to instill these long-standing Amish values and work ethics in our children.

Mr. Pitts explained the provisions of the law that does provide safety. This relief sought through this amendment to the Fair Labor Standards Act is to provide flexibility that permits Amish and other Old Order youth age 14 through 18 to learn skills and values by working in what are typical and common business owned by the Amish and other Old Order groups. It is not to compromise their safety. Supervision by adult members and other adults from the Amish community and certain limitations on activities these youths may perform are acceptable requirements.

The Amish are becoming more safety conscious. Many communities have their own safety committees. The role of these committees is to become acquainted with the various OSHA and other government workforce regulations, to hold regular safety awareness meetings in our communities. We do encourage our youth to attend these safety meetings. At a recent meeting, about one-third of those attending were our youth.

We as older Amish desire to continue to be a self-supporting group without depending on the government for assistance. We desire to pass on to the next generation the work ethics and values our fathers handed down to us. It is our deepest desire to continue to be a self-supporting group and not become a burden on society.

We ask and plea of you men of authority to find some reasonable solution to this current problem and concern which we bring before you today.

Thank you for your consideration in this matter that is vital to the interest of the Amish and other religious communities.

[The prepared statement of Mr. Blank follows:]

**Statement of Christ K. Blank, Chairman, Old Order Amish Steering
Committee - National, Kinzers, Pennsylvania**

Honorable Congressmen, Mr. Chairman and Committee members,

It is with appreciation, but humbleness, that we come before your committee. We wish to thank you for the opportunity to bring some of our concerns before you today.

I am speaking here today on the behalf of the many Old Order Amish and Mennonite communities through out the United States. In recent years we are getting more and more complaints of Amish & Mennonite businesses being fined for allowing boys under age 18 to work in their place of business. Our concern is the infringement of these Child Labor Laws on our way of life.

As many of you undoubtedly know, the Amish way of life and religious beliefs prohibit formal education beyond the eighth grade level. Typically, the Amish youth leave school at the end of eighth grade, but their education does not stop there. Instead, they only begin to absorb in earnest, the knowledge and skills needed to earn a livelihood and support a family. Upon completion of the eight terms of elementary school, many Amish children are enrolled in an informal vocation class of learning

by doing under parent and church supervision to further prepare them to enter into the adult work place. This informal vocational class, is recognized by, the United States Supreme Court ruling in *Wisconsin v. Yoder*, as a legal alternative to the compulsory school attendance laws.

At age 14, an Amish boy or girl is considered to be ready for a full course of training. A training that requires "learning by doing". This adolescent period is of utmost importance to our religious status. We must not tolerate idleness during these adolescent years, therefore, we see a dire need that our youth learn a trade or remain occupied, preferably under supervision of a parent or church member. It is a long-standing Amish belief and tradition to instill good work ethics in our children at a young age and to start training a child at a fairly young age to become a self-supporting, respectful and law abiding citizen. Train up a child in the way he should go and when he is old he will not depart from it. (Proverbs 22:6). We strongly believe the ages 14 through 17 to be a very tender receptive age in which to instill these long standing Amish values and work ethics in our children. We believe that forced idleness in this age to be detrimental to our long-standing Amish way of raising our children and teaching them to become good productive citizens. Keeping young hands busy also keeps them out of mischief.

We recognize that, historically, the Child Labor laws have been more lenient on farm labor, especially a family farm. For many years our livelihood was based largely on agriculture and for many still is. However due to many reasons beyond our control, the trend is gradually forcing more and more of our youth to learn other trades. We try to encourage an occupation where such youth is learning by doing by working at a place where his father or a member of the church is available to supervise him.

Due to the high cost of our dwindling supply of farm land, more and more of our families are being forced to start small businesses such as woodworking shops, welding shops, sawmills, pallet shops etc. This is in keeping with the Amish tradition of operating a family business so the family can work together.

We have many Amish owned or operated sawmills among our communities. Our youth are well qualified and capable of providing hand labor in stacking and sorting the lumber as it comes away from the saws. This sorting and stacking operation usually occurs some distance away from the saws themselves. However, under the present regulations no one under age 18 is allowed to work in a sawmill building. We have in the audience several owners of sawmill operations that were investigated and fined for allowing boys under age 18 to work in the very situation described above. None of the owners were aware that they were in violation of the child labor law until the investigator showed up. They were told to send the boys home and warned that if he (the investigator) comes back again in several weeks and finds the boys back on the premises, he will shut the whole operation down. These threats created a great concern in the area, not only among the Amish, but also among their non Amish neighbors. They received no warning before they were fined even though the owners indicated they would comply with the order.

One of the owners related an incident to me where one of the boys, whom he was required to send home, came back and asked, in tears, "When can I come to work again?" The owner of course had to say "Not until you are eighteen."

In our small woodworking shops there are many occupations our youth would be capable of performing, however, more and more of our small woodworking shops are finding themselves in violation with the child labor laws because of the power tools that are needed to be efficient. Under the present Regulations even the owners own boy could not work until age 16 in a manufacturing operation or age 18 in any occupation which the Secretary of Labor shall declare to be hazardous.

There seems to be a lot governmental interest in finding ways to better prepare today's youth to enter into today's workforce. Many states are drafting School to Work Acts. It seems coincidental that at the same time, these Amish are being fined for pursuing a system which has been proven successful in preparing our youth for adulthood and to be respectful, self-supporting citizens.

In *Wisconsin v. Yoder*, Dr. Donald Erickson testified that the Amish System of learning by doing was an "ideal system" of education in terms of preparing Amish children for life as adults in the Amish community. Fit further stated, "Many public educators would be elated if their programs would be as successful in preparing their students for productive community life as the Amish system seems to be."

We realize that the object of the Child Labor laws is to protect the children. We Amish share your concern for safety in the work place. As an illustration of our concern, in one of our larger communities they have set up an Amish safety committee. The purpose of this committee is to work with Amish businesses to help make our people more aware of good safety practices that need to be instilled in our work

places. Some other Amish communities are also showing interest in setting similar committees.

As Old Order Amish, we desire to be a self supporting group, taking care of their own needy and elderly people, in their own way, without depending on the government for assistance. In the past we have been granted a number of exemptions from participating in various programs or requirements which our forefathers saw as being detrimental to our way of life or which our religious beliefs prohibit. We very much appreciate the many privileges which we have been granted over the years. It is our deepest desire to continue to be a self-supporting group and not to become a burden on society.

We ask and plea of you men of authority to find some reasonable solution to this current problem and concern that we bring before you today. We wish you many blessings and the guidance from above in performing your many very important duties as elected officials of our country. May the Lord Bless you.

Chairman NORWOOD. Thank you, Mr. Blank.

And now I'd like to recognize Mr. Clark, and we welcome you here and look forward to your testimony.

STATEMENT OF NICHOLAS W. CLARK, ESQ., ASSISTANT GENERAL COUNSEL, UNITED FOOD AND COMMERCIAL WORKERS, AFL-CIO, WASHINGTON, DC

Mr. CLARK. Thank you, Mr. Chairman and Members of the Subcommittee. Thank you for this opportunity to present the views of working people on this most important issue of child labor protections.

My written statement has already been submitted for the record, so my remarks here will be brief.

While we respect the desires of the Amish community to provide employment opportunities for Amish youth, we think that weakening child labor protections is the wrong way to accomplish that objective.

Under current law, all children, regardless of faith, are prohibited from working in sawmills or other woodworking jobs. The reason is simple. For decades, the Federal Government has concluded that these occupations are extremely dangerous, even for adult workers, and even more dangerous for young workers.

Sawmilling and woodworking jobs are among the most hazardous occupations, with a death rate that is five times the national average for all industries, exceeding rates even in the construction industry. Those occupations also have exceptionally high non-fatal injury rates.

We must recognize that work which is dangerous for adults is doubly dangerous for children. Occupational injuries for children are double the occupational rates of injuries for adults. Every five days in this country, a child is killed on the job. Every 40 seconds a child is injured on the job.

This bill would allow Amish children ages 14 to 17 to work in Amish-owned shops that produce storage sheds, furniture, and other consumer wood products, while preserving government prohibitions against such employment of non-Amish children. This means that only Amish children lose government protections against working in such extremely dangerous occupations.

This bill purports to provide certain safety protections for children employed in these mills. However, the Federal Government has carefully examined those proposals and concluded after visits

to operating sawmills that these so-called protections have very serious problems and would not protect children from serious injury or death from working in these facilities.

Furthermore, the bill would not prevent children from operating all machinery that is in these shops. It would also not protect them from falling boards, not protect them from carcinogenic fumes, or from fires or explosions.

Between 1988 and 1997, seven deaths occurred among workers in sawmill occupations who were younger than 18. One was a 17-year-old Amish youth who was electrocuted. Another a 16-year-old electrocuted while performing odd jobs and clean-up work. A 17-year-old died after being struck on the head by a large board. Other children received crippling injuries. One 16-year-old had his foot amputated by a conveyor belt. A 17-year-old lost his finger.

Clearly, for safety reasons alone, the proposed regulations or the proposed bill is a bad idea. However, there are other reasons for rejecting the bill, most notably that it is unconstitutional. Both the First Amendment's Establishment Clause and the Fourteenth Amendment's Equal Protection Clause prohibit legislation that provides one group of persons more or less protection than afforded other persons simply because of their religious affiliation.

This bill would grant Amish-owned sawmills and woodworking firms an exception from child labor laws that are denied competing firms owned by persons of non-Amish faith. And the bill would deny Amish children the very real benefits of government health and safety protections that are afforded non-Amish children. Congress cannot constitutionally deny Amish children child labor protections simply because they are Amish.

As stated at the outset, we are sensitive to the desires of the Amish community to provide employment opportunities for Amish youth. I myself, like the Congressman, have Amish roots. My great grandmother was Amish, from Bucks County, Pennsylvania. We recognize that employment opportunities in farming which traditionally fulfilled this desire are becoming less plentiful.

However, it must be recognized that few Amish-owned for-profit businesses even existed prior to 1970, and that over 30 percent of such firms have been started since 1995. By the time these firms were started, the laws prohibiting child labor in sawmill and woodworking operations as well as the abysmal safety record of those occupations were well-established.

While these firms provide much-needed employment for Amish adults, they cannot safely or constitutionally serve that purpose for Amish children. Accordingly, we call on Congress to reject H.R. 1943 as perhaps well-intended, but an unwise, unsafe, and unconstitutional proposal.

I wish to close by relating to the Subcommittee the sentiments of USCW members who are sawmill workers. They said that allowing children under the age of 18 to work in their facilities is a very bad idea because the work is simply much too dangerous for workers of that age. They felt so strongly about the issue that they asked for an opportunity to write the Subcommittee about their experience and concerns, and we will be submitting that letter to the Committee within the 14-day period.

That concludes my remarks, and I invite any questions that the Subcommittee may have.

[The prepared statement of Mr. Clark follows:]

Statement of Nicholas W. Clark, Assistant General Counsel, United Food and Commercial Workers, AFL-CIO, Washington, DC

Mr. Chairman and Members of the Subcommittee:

Thank you for this opportunity to present the views of working people on this most important issue of child labor protections for working Americans. While we respect the desires of the Amish community to provide employment opportunities for Amish youth that are consistent with Amish religious and cultural values, there are sound and compelling reasons for our opposition to this proposed legislation.

First, the proposed legislation would expose Amish children ages 14–17 to working conditions which the federal government has concluded are “extremely dangerous” even for adult workers, and which are “especially inappropriate for young workers.”(1) According to federal government studies, sawmilling and woodworking are among the most hazardous occupations for adults, with a death rate that is five times the national average for all industries, exceeding rates in construction, trucking and warehousing, and an exceptionally high non-fatal injury rate.(2) For these reasons, the Fair Labor Standards Act prohibits any manufacturing employment by children under the age of 17, and U.S. Department of Labor Hazardous Occupations Order No. 4 (H04) prohibits any employment of persons under the age of 18 in a sawmilling or woodworking facility.(3) H04 was promulgated pursuant to the Secretary of Labor’s statutory obligation to protect children under the age of 18 from jobs which are particularly hazardous or detrimental to their health and safety.(4)

H.R. 1943 purports to provide certain safety protections for children employed in Amish-owned sawmills or woodworking facilities. However, the federal government has “carefully examined” those proposals and concluded “after visits to operating sawmills” that these so-called protections have “very serious practical problems” and would not protect children from serious injury or death from working in these facilities.(5)

Although statistics on injuries to children from sawmill and woodworking jobs should be non-existent because such labor is illegal, sadly some employers have violated the law, with tragic results. Between 1988 and 1997, 7 deaths occurred among workers in these occupations who were younger than 18. One was a 17-year-old Amish youth who was electrocuted. Another was a 16-year-old electrocuted while performing odd jobs and clean-up work. Another was a 17-year-old who died after being struck on the head by a large board. Other children received crippling injuries. One 16-year-old had his foot amputated as a result of a conveyor belt accident. A 17-year-old lost his finger while cutting a piece of lumber.(6)

The proposed legislation targets Amish children, and will likely result in even more mutilating injuries or deaths among Amish children. For this reason alone, the proposal should be rejected.

However, the proposed legislation should also be rejected because it violates the First and Fourteenth Amendments to the U.S. Constitution. Both the First Amendment’s Establishment Clause and the Fourteenth Amendment’s Equal Protection Clause preclude legislation that would provide one group of person more or less protection than afforded other persons simply because of the religious affiliation. H.R. 1943 would deny Amish children the very real benefits of governmental health and safety protections that are afforded Catholic, Baptist, Jewish or any other children of non-Amish faith. Further, it would grant Amish-owned sawmills and woodworking firms an exception from child labor laws that are denied firms owned by persons of non-Amish faiths. Amish first came to this country to escape a government that denied them protections afforded persons of other faiths. Amish children have benefited from the same child labor protections afforded children of other faiths for over 60 years. Congress should not deny them those protections now simply because they are Amish.

The proposal would also require government investigators to determine whether owners of firms seeking to employ child labor, and their child employees, are truly Amish. Such determinations would necessarily entangle the government in the practice of religion, also in violation of the First Amendment.

As stated at the outset we are sensitive to the desires of the Amish community to provide employment opportunities for Amish youth. We also recognize that employment opportunities in farming, which traditionally fulfilled this need, are becoming less plentiful. However, it must be recognized that few Amish-owned for-profit businesses even existed prior to 1970, that 60 percent of all such firms have

been started since 1980, and that over 30 percent of such firms have been started since 1995.(7) By the time these firms were started, the laws prohibiting child labor in such occupations, as well as they abysmal safety record for such occupations, were well established. While these firms provide much needed employment for Amish adults, they cannot safely or constitutionally serve that purpose for Amish children.

Accordingly, we call upon Congress to reject H.R. 1943 as a perhaps well intended but unwise proposal. We urge that Congress instead act to strengthen child labor protections by enacting H.R. 3139, the Youth Worker Protection Act, which was introduced September 23, 2003, and which would greatly enhance child labor protections while preserving the existing family farm exception.

Endnotes

1. Letters, U.S. Department of Labor to Congressman Joseph R. Pitts, 10–28–97; 4–20–98.
2. *Id.*
3. Letter, U.S. Department of Labor to United States Senate, 3–5–98. H04 may be found at 29 C.F.R. 570.54.
4. *Id.* According to DOL, “injury data collected over several decades has consistently shown that sawmills are particularly hazardous workplaces for adults, let alone children.”
5. Letter, U.S. Department of Labor to Congressman Joseph R. Pitts, 4–20–98.
6. National Institute for Occupational Safety and Recommendations to the U.S. Department of Labor for Changes to Hazardous Order, May 3, 2002; Summary of Accident Investigations Investigated by OSHA, April 1984–98 (March 2, 1998).
7. D.B. Kraybill & S.M. Nolt, *Amish Enterprises: From Plows to Profits* (James Hopkins Press).

Chairman NORWOOD. Thank you, Mr. Clark.

Mr. Burkholder, you are going to be recognized, and I want to thank you for traveling some distance to be with us.

**STATEMENT OF WILLIAM BURKHOLDER, C.B. HARDWOOD
LUMBER COMPANY, CENTERVILLE, PENNSYLVANIA**

Mr. BURKHOLDER. Thank you, Mr. Chairman. Greetings, Committee Members. Thank you for the opportunity to present to you our concern regarding well-intended child labor laws and the adverse impact some of these laws are now having in our Amish community to our way of life.

As I am sure you are aware, children in our community finish classroom school in eighth grade, learning the essentials of reading, writing and arithmetic. While this learning is an important part of shaping their lives, preparing them for adulthood, their success with our way of life requires other skills as well.

Many adult occupations have been learning by doing. Despite living in a technological world, we have limited ourselves by choice to occupations that leave time for our faith in God and for our families. Farming, carpentry, wood and metal shops, sawmills, harness making, and furniture making are some of the ways I’m sure you recognize we earn our living.

They are occupations that reinforce self-reliance with our group or community as well as the work ethic. While many of your own children might have a computer at an early age to begin to acquire the skills they will need to thrive in a modern, fast-paced world, our society requires faith and tradition to keep itself together to continue to thrive in a modern world. Again, this tradition is one of our faith in God, a belief in the importance of our families, of self-reliance within our group, and hard work. These beliefs and

lessons we share with our children, even at a very young age. They learn by our example and by doing.

We recognize that child labor laws were made and needed to correct abuse in the past. These laws still help ensure that children are not forced into unsafe, exploitive labor. We hope you recognize that we pursue the same goal as you regarding the safety of our children.

In 1971, the Supreme Court by its decision in *Yoder v. Board of Education* recognized the intent and purpose for us to educate our children in our own schools. Graduates from our Amish schools are most often eager to provide for themselves as hard workers. They turn to farms, shops, or mill owners like myself to earn an income to get started on a farm or other business on their own. This is a cycle that has repeated itself successfully throughout the history of our community in the United States.

Despite rising land costs, property taxes, income taxes, school taxes, start-up costs for businesses, buildings, equipment, and machinery, our young people overcome many obstacles to start off on their own in our community. Besides a commitment to hard work to achieve their goals, they also must rely on their family and business owners like myself to help them get started.

Thank you.

[The prepared statement of Mr. Burkholder follows.]

**Statement of William Burkholder, C.B. Hardwood Lumber Company,
Centerville, Pennsylvania**

Thank you for the opportunity to present to you our concerns regarding the well intended child labor laws and the adverse impact some of these laws are now having in our Amish community to our way of life.

As I'm sure you are aware, children in our community finish classroom school in eighth grade learning the essentials of reading, writing, and arithmetic. While this learning is an important part of shaping their lives, preparing them for adulthood, their success with our way of life requires other skills as well. Many of our adult occupations have been learned by doing. Despite living in a technological world, we have limited ourselves by choice to occupations that leave time for our faith in God and for our families. Farming, carpentry, wood and metal shops, saw mills, harness making, and furniture making are some of the ways I'm sure you recognize we earn our living.

They are occupations that reinforce self reliance within our group or community as well as the work ethic. While many of your own children might have a computer at an early age to begin to acquire the skills they will need to thrive in a modern, fast paced world, our society requires faith and tradition to keep itself together to continue to thrive in a modern world. Again, this tradition is one of our faith in God, a belief in the importance of our families, of self reliance within our group and hard work. These beliefs and lessons we share with our children even at a very young age. They learn by our example and by doing. We recognize that child labor laws were made and needed to correct abuses in the past. These laws still help insure that children are not forced into unsafe, exploitive labors. We hope that you recognize that we pursue the same goal as you regarding the safety of our children.

In 1971, the Supreme Court, by its decision in *Yoder v. (Board of Education)* recognized the intent and purpose for us to educate our children in our own schools. Graduates from our Amish schools are most often eager to prove themselves as hard workers. They turn to farm, shop, or mill owners like myself, to earn an income to get started on a farm or other business on their own. This is a cycle that has repeated itself successfully throughout the history of our community in the United States.

Despite rising land costs, property taxes, income taxes, school taxes, start up costs for business, buildings, equipment, and machinery, our young people overcome many obstacles to start off on their own in our community. Besides a commitment to hard work to achieve their own goals, they also must rely on their families and business owners like myself to help them get started.

Chairman NORWOOD. Thank you, sir.

Mr. Pitts, in Mr. Clark's testimony, he raised concerns about the constitutionality of this legislation, and he specifically stated that it would violate the Establishment Clause of the Constitution by favoring Amish youth over non-Amish youth.

Now I know you well enough to know that you and your staff probably had a bevy of Constitutional lawyers around when you were drafting H.R. 1943, so from that I have a couple of questions. As I read this legislation, it is not strictly limited to Amish youth, but rather, any individual whose recognized religious sect or division fits the qualifications that are set forth in this bill. Do I read that correctly?

Mr. PITTS. That is correct, Mr. Chairman, you're reading it correctly.

Chairman NORWOOD. And I understand that H.R. 1943 is modeled on language that the Supreme Court has already held to be Constitutional in another context. Am I right about that?

Mr. PITTS. That is correct. The language is based on language that has been found Constitutional by the U.S. Supreme Court in upholding religious exemption for the Social Security taxes.

Chairman NORWOOD. Is it reasonable to expect this language would be found Constitutional, as well?

Mr. PITTS. Yes, Mr. Chairman. There have been a couple of cases, and I'm sure Mr. Blank can cite them, where this has gone all the way to the Supreme Court, and they have been upheld in the Supreme Court. He's mentioned it as far as Amish schools, their education system, and it's true as far as the Social Security system.

Chairman NORWOOD. Mr. Souder and Mr. Pitts, I'd like for you to—I think the Subcommittee needs to hear, frankly, a little bit of your knowledge as it relates to your constituents back home as this law has been enforced on your constituents and what kinds of fines have been levied and what is this doing to your constituents.

Mr. PITTS. Thank you, Mr. Chairman. As I mentioned, one case in Lancaster County had to do with a leather shop, harness making, leatherworking shop. It's very well-known in my area. And they have in the front of the shop where the cash register is, they have all kinds of displays of merchandise, and in the back, they have machines that actually work on the leather.

This gentleman contacted me, Amish gentleman. He had his 15-year-old daughter in the front of the shop operating a cash register, learning to use a cash register. He was cited by the Department of Labor for violating child labor laws because in the back of the shop, there were some machines that could be considered hazardous in their case. That was an \$8,000 fine.

I have met with a number of Amish from not only my district but all over the country. The fines have ranged from 8 to 10 to 12 to 15, up to \$20,000, in various settings, mostly in woodworking. A lot of the Amish, since there's not enough farmland, they're getting into woodworking, making sheds and lawn furniture, things like that. Because there's a power tool on the premise, they are being cited and fined, and they came to me and said, look, we want to be good citizens, but we can't afford these kind of fines. They asked for some kind of intervention with the Department.

Chairman NORWOOD. Just a minute Mr.—I wonder what a harness would retail for?

Mr. PITTS. Well, I'll ask one of the gentlemen here.

Chairman NORWOOD. Just ball park. Typically, what might a harness—

Mr. BLANK. Well, our typical driving harness that we use in our community is between \$300 and \$400 for a new harness. Now what the shop that he's talking about, he does a lot of harnesses for like shows and things like that, and I have no idea what they might sell for, but they are a lot more expensive than that.

Chairman NORWOOD. How long would it take to make a harness?

Mr. BLANK. Well, I can't answer that. I'm not really involved in harness making. I would say one person working a day.

Chairman NORWOOD. I guess my—comment?

Mr. PITTS. I just asked any of the other observers if any of them were involved and knew.

Chairman NORWOOD. Well, you'd have to work a lot of days to make enough harnesses to pay the taxes and then pay an \$8,000 fine. I wonder if that fine is aimed at putting somebody out of business. Because you can't live with that very long.

Mr. Souder, what's going on in your district?

Mr. SOUDER. It's a little different in Indiana. As best I can tell from the meetings that we've had, that this was precipitated mostly out of the Philadelphia Labor office. They came into Pennsylvania, probably had complaints from competitors or people who were worried about other categories, didn't understand the religious liberty clause, which clearly is defined for whether you're drafted, Social Security. There are all kinds of variables that relate to this.

They didn't understand that the courts already ruled that they can have their kids leave at eighth grade. What are they supposed to do from the time they leave at eighth grade until they get to this age? They don't believe—they believe idle time is the devil's workshop. What are these kids supposed to do if they don't have enough farm work? Yeah, maybe they can milk a cow in the morning, they can do a little bit later, but if you don't have enough acreage to keep them busy full time, they need to have work.

Now in Indiana—I believe there's been a little enforcement in Ohio—but in Indiana, they have not enforced it. The Department of Labor there has, I believe, had more occasion to understand what's happening in the Amish community, and we haven't had that pressure. But we're very worried that the precedent that was set in Pennsylvania is going to start to ripple through the whole country, and then we're going to have lots of court cases trying to define whether these fines are legitimate or not legitimate, whether these people's minority rights are protected under the Constitution or not, and this legislation would help address that.

The problem so far has been mostly localized in Pennsylvania. But as other people see them as a threat, the goal here is really not what it looks like—child safety. These kids in this faith are far safer than anybody else's family, almost, in America. Here it's really competition, because as they move from farm labor to other things, people want to shut them down.

Chairman NORWOOD. I have many more questions, but I see my time is up. I yield to Mr. Owens for questions.

Mr. OWENS. Your last statement, Mr. Souder, about people wanting to shut them down, is there any evidence or facts to back that up? It implies the Department of Labor is part of a conspiracy to shut down the Amish. I don't think in this great country of ours anybody really wants to interfere with—

Mr. SOUDER. The motives of the individual people who are at the Department of Labor, although I will say in talking with the Department of Labor, he had never visited an Amish place. He had no understanding what the Amish religion was, why the person who made the decision didn't understand the debate. In my community where we have had Amish do different things, Mennonites and others, of which I am not Amish. My family left, and I understand this pressure. They complain all the time that the Amish don't do this, the Amish don't do that, the Amish don't do that. Yes, it is a huge pressure in the communities involved.

Mr. PITTS. Mr. Chairman, as far as the double standard is concerned, your kids, my kids in our schools, English schools they call them, have lab or shop classes or they can go to vo-tech school. My son at age 14 made a beautiful coffee table with a bandsaw. And in his class were 14 other kids, and there was one teacher. Now that's what our kids do use. They use the equipment. We're not even asking that their kids can use the machinery. We just want them in the workplace so that they can learn the work ethic. They may only glue the lumber, stack lumber, sweep sawdust, fill out paperwork. But we're not asking that they use the bandsaws or the power equipment like our kids do. That is a double standard.

Mr. OWENS. I don't think either one of you gentlemen question the premise of the government and its assumption that it must protect the children. I don't think anybody would argue that Amish teenagers are any more mature than any other teenagers, and that the basic premise here is to protect children.

There are numerous other religions throughout the country that ask for exemptions, too, and you'd have a domino effect here if you start exempting on the basis of the fact that this particular set of beliefs is such that we ought to honor it by exempting it. There are some groups that don't want children vaccinated, and there are some that don't want blood transfusions under any circumstances. There are numerous other ways in which various religious groups have asked for exceptions that this would open a Pandora's Box to.

The constitutionality question is still, it seems to me, up in the air in terms of—I think your bill says that these youth would be supervised by Amish supervisors, Amish adults. That means that no other adults could be hired to do that. That seems like just a technicality, but once you permit that technicality in this case, you open the door for it to be also a precedent for numerous others.

And Mr. Clark, does basing legislation on specific religious belief instead of naming a specific religion in any way immunize the legislation from constitutional challenge?

Mr. CLARK. No, it doesn't.

Mr. OWENS. Can you use the mike, please?

Mr. CLARK. No, it doesn't. I think the rulings that were referred to actually refer to issues other than child labor, where the govern-

ment interest is not so compelling. Here we're talking about a matter of serious injury, even death, for children. And in that situation, this bill doesn't favor Amish children; it disfavors them. It says that they and they alone and not children of other religions can lose the child labor protections that are in the law for other children.

Mr. OWENS. In other words, the whole question of competitiveness, also, if there is competition which has led the Amish to use power equipment where they don't use it normally in their homes, you want to be competitive. If you can employ children and the other people cannot employ children, then that means that you get an advantage in terms of competitiveness also, which is another question in terms of equal protection under the law.

Mr. PITTS, you spoke of an \$8,000 fine at a harness-making shop. How much was actually paid? And did that employ a paid-up fine, or was it subsequently reduced? Was this a recent occurrence, or—

Mr. PITTS. No. This was one of the initial occurrences that brought this to my attention several years ago, so I am not sure whether he has paid the fine or if it was reduced or increased. I know I have gotten lots of other complaints from other business—these are family businesses basically, small businesses.

Mr. OWENS. OSHA inspectors have so many businesses to inspect and so few inspectors, would you say that there's been an inordinate number of inspections of the Amish shops? Have they been harassed?

Mr. PITTS. They seem to have been targeted.

Mr. OWENS. You think they've been targeted?

Mr. PITTS. Yes. They have received visits. And your point about being disadvantaged, I would say if other businesses don't want to use electricity or want to use buggies and horses, let's level the playing field. The Amish are definitely at a disadvantage when they're competing. They don't use electricity. They've got to improvise in other ways. They don't use computers. They don't use automobiles or trucks. They are definitely disadvantaged.

All they're trying to do is keep their kids and let them learn a work ethic and be self-sufficient by age 18.

Mr. OWENS. Well, that relates to my very last question. Do you have any written statement from the Labor Department explaining why the Department cannot proceed administratively to address this issue?

Mr. PITTS. Yes, Mr. Chairman.

Mr. OWENS. Could you provide it for the record?

Mr. PITTS. We have tried several things. First of all, we tried a state internship program, because in Pennsylvania, we have an apprenticeship program approved by our Department of Education for the 14 to 18-year-olds. We thought, well, maybe we could have a state internship program. The Department turned us down because there are no exceptions for the Hazardous Occupation Order Number 4 or Number 5.

We then tried a proposal to allow 16 and 17-year-olds to work in a sawmill building as long as they remained 150 feet away from the sawmill equipment. They turned us down there.

We tried another proposal to allow 16 and 17-year-olds to work in a physically separate part of the sawmill operation. They turned us down.

So we have tried other administrative type procedures, and basically the department has said there's no regulatory or administrative solution. You have to do it by legislation.

Mr. OWENS. And of course this has always been civil servants, because we've been through three or four administrations, Republican and Democratic.

Mr. PITTS. Yeah, it's both.

Mr. OWENS. So it's not a political, partisan political issue?

Mr. PITTS. No.

Mr. OWENS. Thank you.

Chairman NORWOOD. In other words, it isn't partisan.

Mr. OWENS. It is?

Chairman NORWOOD. It's not, Mr. Owens. Let me just make sure I got the record straight here. Now Mr. Owens was referring to these inspections from OSHA. Is it OSHA that's coming in, or is it the Labor Department that's coming in?

Mr. PITTS. No, we're talking about the Department of Labor, labor law, the Wage and Hour Division.

Chairman NORWOOD. So it's not coming directly out of the OSHA division?

Mr. PITTS. Not what I am talking about.

Chairman NORWOOD. Okay. That's important to know that.

And just to comment, the Federal Government, Mr. Owens says, is responsible for keeping our children safe. And I happen to believe that there are other people responsible for that, too. A lot of times it happens to be your daddy or your uncle, and I'm not so sure the Federal Government can ever do as good a job as we should do for our own children ourselves.

With that, Ms. Biggert, you are recognized for five minutes.

Mrs. BIGGERT. Thank you very much, Mr. Chairman. And thank you all for coming. This has been an interesting hearing. I have a question for Mr. Burkholder. You own a lumber yard or lumber mill?

Mr. BURKHOLDER. Yes.

Mrs. BIGGERT. Could you just describe what the—well, first of all, under the Fair Labor Standards Act, the agricultural work is exempt right now. Can you describe what Amish youth would do under—within agriculture as compared to what they would do in something like your lumber yard?

Mr. BURKHOLDER. Well, with agriculture, really, I mean, youths are permitted to even ride a tractor, drive a tractor and things like that, which I would not permit my child. And in the lumber industry, I had boys that were—it was a separate building completely from the mill, and is a grading shed where they just pile in the lumber, and from the height of this table onto a cart beside them, they just pulled the board. They didn't really have to lift the board completely, and pile it on there. And they said the lumber is too heavy. It's too much weight for the boys to lift the lumber.

And they had no problem. They could do it probably twice as good as I could, and for say all day, and other—as far as your farming, I know, you know, adults that have gotten killed from riding

tractors, and horses run away. I mean, we try to keep our horses, you know, train them safe so they don't run away, and they're very obedient. And that is dangerous, too, if you have colts and so on.

But I think as far as piling the lumber and behind the mill, is not hard work. It's heavy, but it's still not hard work.

Mrs. BIGGERT. How many employees do you have?

Mr. BURKHOLDER. I have around 30 now.

Mrs. BIGGERT. Thirty?

Mr. BURKHOLDER. Yeah.

Mrs. BIGGERT. And do you have sons that work?

Mr. BURKHOLDER. I did have. They both moved away, so neither one of them are working with me now, but they did start when they was real young, and I didn't realize it, and they worked with me all the way through until three years ago.

Mrs. BIGGERT. And do you have other employees who have their children that are working there?

Mr. BURKHOLDER. I have a few of them that are under—they're 16. The labor board told me they can work from 16 to 17 on machinery that feeds in with belt or chain or rolls, and they can stack the lumber with that. But between 16 and 18. But under 16, no. I had six boys that were fined.

Mrs. BIGGERT. Was this after they told—or you were fined?

Mr. BURKHOLDER. Yes. Then they come back and looked at the machinery and everything and then they—this was in the pallet shop, not the sawmill.

Mrs. BIGGERT. Do you think that—well, concerns have been raised about if the Amish youth are permitted to work in the wood-working, that they might go and work for non-Amish business or otherwise become unfair competition. Have any of these wanted to go—

Mr. BURKHOLDER. Not to my knowledge. I have a nephew that worked on a farm, but other than that, I can't—I don't know, to my knowledge, I don't know of anyone that—

Mrs. BIGGERT. Well, it would be really hard under this bill, wouldn't it? Because it requires that the minor be supervised by a relative or a member—

Mr. BURKHOLDER. Right. A relative or—yes.

Mrs. BIGGERT. Is this a big business? I mean, do you have a big lumber company?

Mr. BURKHOLDER. Well, it's fair size, yeah. We have—

Mrs. BIGGERT. Thirty employees.

Mr. BURKHOLDER. We cut the lumber and then I do the sales for the lumber, and then we take what we call the low grade, and then we make some pallets.

Mrs. BIGGERT. And where do you sell it?

Mr. BURKHOLDER. There's brokers that buy the pallets and different companies that buy the pallets.

Mrs. BIGGERT. So they come and pick it up there?

Mr. BURKHOLDER. No. We have to hire somebody to deliver it.

Mrs. BIGGERT. So how would you compare safety-wise the working—

Mr. BURKHOLDER. For safety, I have shop saws in the shop, but I never—I've always kept all them away from—I have—

Mrs. BIGGERT. Have you had any accidents? Have you had any accidents of adults or children?

Mr. BURKHOLDER. Yes, I have had from adults, more adults than I had from children. I had one child that he wasn't supposed to run the saw, but he did, and he cut himself a little. But the adults, I don't know. I still have no idea. He stuck his hand right in the bandsaw while it was running to pull a slab out and we've told him shut it down. I mean, he's been warned and warned. And I don't know why he done it. I have no idea. He reached right in there and it pulled his hand right in the blade and—

Mrs. BIGGERT. Well, under the bill, it says that a minor may not under any circumstance operate or assist in the operation of power-driven woodworking machines, so that, you know, accidents happen, but I think that with the size of the operations, I think this is a really good bill. And I don't understand the reason for the Department of Labor coming into an operation like this when this is such a community that, you know, is off to itself. And I congratulate both of you for bringing this bill forward.

Chairman NORWOOD. Mr. Pitts, did you want to—

Mr. PITTS. Yes, Mr. Chairman, to elaborate a little bit on Ms. Biggert's question on what they do in agriculture. If they're in agriculture, they're totally exempt. And as I saw a few years ago, a 10-year-old boy was driving a team of mules with disc in the field. And I was visiting his parents, and all of a sudden, down the highway came a team of mules galloping, dragging behind these discs. Cars were scattering everywhere. And they came right in the driveway, right by me, went up to the barn and stopped. And looked up in the field, and the little boy waved, and everything was okay.

A ten-year-old can drive a team of mules, and they're totally exempt. Any kind of agriculture, but not if it's woodworking.

Mr. SOUDER. Can I make a safety comment, too?

Chairman NORWOOD. Mr. Souder?

Mr. SOUDER. I think it's important to understand the functioning in the safety side. I think one thing is, is they really want to be law-abiding, because they believe it's a sin if you don't obey. Therefore, when there is an investigation at one or two places, it goes through the budget newspaper and everywhere else all over the country as to what this means in behavior.

One of the good benefits of this is, is that they're finding it clarified as well, too, about don't let the kids on the machinery, or you could get fined. This bill actually probably is a step back for many of those woodworking places that have been expanding in the last number of years.

We've gone through this with milk on Grade A versus Grade B milk and had to fight the definitions of what they'll do with milking machines. We've been through this on highways, with whether the triangle was a mark of the beast. We've been through this with immunizations. We've been through this with farm runoff and what kind of farm runoff impacts their neighbors and how can they have enough flexibility to adapt to technology to keep their religion so they can hold jobs so they can protect their kids, when they can deprive health care, when they can't deprive health care. But the fundamental question is, if you can't eat, if you can't get jobs to

sustain yourselves and your religion, you abandon the religion or you abandon the region.

And the question here is, can we keep this safe so these kids can be in these buildings and yet still be working? Or are we not even going to let them in the buildings? On the other hand, the Amish are going to have to be more careful, or they're going to be fined if these kids get on the machines.

Chairman NORWOOD. Ms. Majette, you are now recognized, my colleague and friend from Georgia.

Ms. MAJETTE. Thank you, Mr. Chairman. And I thank all of the witnesses for being here this morning. I am new to the Committee, and I come to this Committee with a little bit of a background that I'd like to explain to you before I ask the question.

I am representing Georgia's 4th District, which is an area that primarily had been farmland, dairy farmers and others, and it has transitioned to a suburban and now more of an urban area. So I understand, I think, how things have changed and how people have to change in order to continue to make a living and do some things a little bit differently.

And I also have been a former member of the Amalgamated Meatcutters and Retail Clerks Union. When I was 16 years old, I worked in a grocery store, and I didn't work in the meat department, but we did have interaction with that, and I appreciate the remarks, the comments about the need for protection of our young people.

I was an administrative law judge with the Workers' Compensation Board in Georgia and so was challenged with balancing the needs of employers as well as injured workers and their families. But my concern is twofold. One, the safety issue that we've been talking about, and also the constitutional issue.

With respect to the safety issue, I think I understand some of the concerns, but I think we need to find a way to be able to address the need for the Amish people to be able to carry on their faith and their tradition and their livelihood. And my son had the benefit of being in a woodworking class and a construction class when he was 16 years old, and they made picnic tables and other pieces of furniture after being trained and passing the safety tests. So I think it is possible for that sort of thing to take place. And I guess I'm saying all this to direct my question to you, Mr. Clark. What would you suggest we do in terms of legislation to allow the Amish people to preserve their faith and their tradition and their livelihood, since they can't avail themselves of what our society provides as a traditional means of learning or having their young people learn those skills?

I mean, how can you help us with that so that we can achieve that balance that we need?

Mr. CLARK. Well, I think that the starting point is that the Amish in this country have not just survived, they have thrived, and they have done so because they are so adaptable in terms of finding ways of adapting their religion so it can conform to U.S. laws, and have been very successful in doing that in a variety of circumstances, some of which have been talked about this morning.

In terms of the starting point for this particular legislation is to say first that you can't accomplish this objective of providing occu-

pational opportunities for Amish youth by allowing them to work in this extremely dangerous industry. And where they are most certainly going to be subjected to an unacceptable risk of death and mutilation. We are not without experience here. In fact we have decades of experience, and we have experience from experts in the Department of Labor, and as has been pointed out, it's not whether it's the Democratic Department of Labor, it's not whether it's Republican Department of Labor, regardless of politics, this is extremely dangerous work.

So what we have to do is start with it can't be this way, and then we have to look for other ways. And there are experts far more qualified than I in the Congress, in the Department of Labor, in the Department of Education, and in the Amish community, and particularly in the states of Pennsylvania and Indiana, that can address these issues once they conclude that they can't do it this way.

You can't take the easy way out when it comes to protecting children, particularly when we're singling out one particular religious group that we are going to in fact deny protections that we give Catholics or Protestants or Baptists or Jewish children.

So that's got to be the starting point. Now there are opportunities for education, occupational education, under Department of Labor rules. And they just simply cannot allow those exceptions to take place in a production-type atmosphere, which is what we have here. It has to be in the learning atmosphere, such as a vocational-type institution.

Ms. MAJETTE. May I just—thank you. Can you be more specific about what that environment might be that would still allow for the Amish people to maintain their faith? Is there something, some kind of program or vocational opportunity, that would allow for that? Because if there is, I think that would be important to hear about. If there is not, then I think obviously this is an issue that has been—we've tried to address it in the past, but I think there has to be more than just saying, well, there ought to be some other opportunity, there ought to be some other alternative. If there is one, please tell me about that.

Mr. CLARK. Well, I certainly—I think it would be presumptuous on my part to be, in fact, telling the Amish community how they should best approach this problem. I think the question is more possibly directed towards the current administration, the Department of Labor and the Department of Education, to solve this problem.

I think we simply cannot take the easy way out, which is legislation that would subject the children to this high risk of injury. I think the bill itself, as we see, it only addresses woodworking machinery. It doesn't address the other machinery that exists in these facilities which is very dangerous.

So the focus here is on this particular proposed solution, and we have to first address that and conclude that it will not work, and then direct these very powerful energies and bright people towards another solution.

Ms. MAJETTE. Thank you. I see my time is up.

Chairman NORWOOD. Congressman Souder, do you want to finish it up with a comment?

Mr. SOUDER. I spent a good chunk of my life, long before I was involved in politics, trying to work with the Amish community so they didn't move out of our area, so friends and relatives had alternatives, and there aren't just a whole lot, because in fact one of the problems even in woodworking, sewing, and other things that the Amish do for the tourist trade and other types of jobs, that are being driven out like many others, by the Chinese and others, because they're a labor-intensive religion. They're not a technology-intensive religion. And that means that they'll make some adaptations with technology, but not a lot.

So that the professions that are available to them are few and far between, which is why woodworking has emerged. Now as other Amish craft items come, guess what else is one of our big problems which we're probably going to have to address? There are cheese companies now, one out of Cincinnati, that claims Amish cheese, and they don't even have the correct type of vehicle. They have nothing to do with the Amish, but they've stolen the Amish name, similar to what the Europeans are arguing with different things. And so when they do get successful in a category, somebody comes in, takes it, claims it's Amish this or that, which is starting to happen in woodworking, so one of the things we're trying to do is how do you develop a brand name for their products when they make product? It's not just a kids question, it's an adult question.

But woodworking, the reason it has exploded in these last 20 or 30 years, is it's a labor-intensive area where there's still a certain amount of skill to the quality that can be used, and you can do it with your hands, not just with technology, and that's the challenge with most of the other job alternatives.

Ms. MAJETTE. Is there a way that the youth can be trained outside of a commercial activity? I mean, I suspect as a practical matter that we have lots of people in our society who have their young children or younger children, teenagers, young teenagers, doing woodworking as a craft or as a social activity, as opposed to producing if for sale. I mean, I know that that is the case. Is there a way that we can do it?

Mr. SOUDER. Excellent question, but it has a religious problem with the question. And that is, is part of the reason, even getting eighth grade was a compromise. And then having Amish schools having those teachers being trained outside. But the reason this bill protects Amish kids from being exploited by others by saying they have to say somebody in a similar faith, but it also is a religious separatist provision. And that is, is the Amish don't believe they should interact other than minimally with outside communities. And the longer their kids are exposed to those outside communities, the more likely they are to leave.

You know, in my area, one of my friends from school who left in the eighth grade, we don't have tops in the buggies in my home town area. I said, do you get cold in the winter or do you kind of get used to it? He said we have colds all the time. It is not an easy lifestyle to maintain. And so if somebody says, you know, you can still go to heaven, but you know, you can have a car which is black, the temptation to leave. So the longer these kids are exposed to that by outsiders training it as opposed to their own parents and

in their tradition, the more likelihood that the religion is going to be undermined.

Still, a high percentage of the Amish leave. Because they have high birth rates, they maintain and slightly increase their numbers. But probably anywhere from 30 to 50 percent in an area will leave their faith. And this is their fighting chance to do that.

So while it would sound reasonable to an outsider, I think safety training programs is a more viable type of thing, internally training some of them how they can go around to their businesses and what they need to do to follow the law, is a more viable option than actually putting them in outsider training programs.

Ms. MAJETTE. Well, and just so it's clear, Mr. Chairman, and I appreciate your allowing me to continue, but I am in no way supporting having children be engaged in dangerous activities, and I just question whether or not there is a way that we can create the balance that it appears needs to be created in this situation.

Thank you.

Chairman NORWOOD. Mr. Payne, would you like to question now?

Mr. PAYNE. Thank you, Mr. Chairman. First of all, let me say that it's always interesting to be at a hearing. I was here about five years ago when I heard most of you at that time discuss this issue.

And I think it is wonderful that a religious organization does want to preserve its religion. I think that's great and I think that I wish we had more, you know, more religion in general, and maybe we'd have less problems in our communities and in the world. And so I admire the Amish and the Mennonites, the Quakers.

Many of them are very outstanding, Quakers in particular, in the fight for abolition of slavery back when that was the law of the land; the Quakers were very supportive of the Underground Railroad, and many of my ancestors were protected by coming up through the Underground Railroad and getting up to Canada and becoming free men and women by virtue of the Quakers. So we have a lot of respect for your religion and what your goals and objectives are.

I worked in a lumber mill. My grandfather worked there, my father worked there, I worked there for about four years when I worked my way through college. It was Weyerhaeuser Lumber in Newark, a very large lumber mill. Lumber ships would come from Oregon, West Coast, through the Panama Canal to Newark port to unload timbers and lumber, and I'm sure the work that we did was a lot bigger than what you do. We used to handle timbers, 4 x 12, 26, 28, 30. It used to be graded and select structure number one, two, and three, according to knots were, made the strength of the timber and different processes of Wolmanizing and creosoting to keep the termites from getting into the wood.

So I am a lumber handler, and I think I did a good job at grading and so forth. But it's probably one of the—in the large lumber mills—and I worked in what they called the little mill. The big mill was even worse. It's probably one of the most dangerous places that I did work. Of course it was big, it was commercial. My father lost his thumb on the machine, which even though it was supposed to have protections, he lost his thumb. At that time, you know, you

got a couple of hundred dollars and see how quickly you can get back to work.

I worked there from '52 to '56, almost 50 years ago when I worked in the mills. I'm not a youngster. And I've seen people injured. I've seen—in a lumber mill you need forklifts. You have to really concentrate. Forklifts back up; even though there is usually a beeping sound so that people can be aware, we had injuries. As a matter of fact, after I worked there, I worked in a small business. It was family-owned. There were about 50 workers. In this particular mill, we did machinery on paper after the lumber was processed, we prepared paper forms, computer forms at that time. And one way that we were able to really reduce injuries from the forklift was that we hired a deaf forklift operator, and everyone knew therefore they had to—they couldn't yell and say watch out. They had to make sure that they knew where the forklift was backing up.

So everybody—it was my idea since we hired Leon, who was a deaf person, we didn't have an injury with the forklift. Before that, we had one or two, because everybody looked at the forklift, and it was their responsibility for their safety, because they couldn't say "I called out."

But anyway, the lumber industry is difficult. You can have all kind of accidents. You can have lumber falling. You can have forklifts, you have load, and backs can be injured even though you're not at the machine. Machinery sometimes has a shrill, and you have the occupational safety if you have over 80 decibels, you need to have ear protection. It's hard for adults to be responsible enough to keep ear protection in. This is a big problem in many places where sound is over the decibels, and you'll find that loss of hearing happens.

With young people, it's more difficult to discipline them, a 14-year-old. I mean, I was 18 to 22 when I worked there. But a 14-year-old is not as responsible, and even though, and I know you're very particular about don't get near the machine, a youngster is going to wander and a youngster is going to at sometime they're just more apt to not be as responsible as an adult. That's why we have even criminal justice that has different kind of penalties for activities if you're under 18 or now under 16 than if you are an adult.

So I think that it's a severe problem. I can understand what you're attempting to do. I wonder whether if there could be some other, non-threatening type of work that could be done, maybe in fabrics or something that doesn't deal—working in a lumber mill, when you're cutting wood, you have to have a pretty tough machine, period.

I just don't think that 14-year-olds are responsible enough. I don't think that they are able to necessarily follow the rules, as has been indicated in opposition to the law. I would hate to see the law change, because then the question is, would either you, Congressman Pitts or Congressman Souder, and maybe it's a question, would you support permitting any child 14 years old to work in a lumber mill? Let me just ask you that, either one of you.

Mr. PITTS. The proposal that we have is very specific that it has to be a member of a religious sect or division thereof whose estab-

lished teaching do not permit formal education beyond the eighth grade, and that the individual must be supervised by an adult relative or by an adult member of the same religious sect or division.

It's tailored specifically for their problem. I do not oppose our youngsters being able to use power machinery in shop classes in our schools, which your kids and my kids or kids in vo-tech schools do. I would not prohibit them from doing that. But this doesn't even go that far. These kids aren't even allowed to assist or operate any power-driven woodworking machines.

Mr. SOUDER. May I answer the question?

Mr. PAYNE. Yeah, sure.

Mr. SOUDER. I don't. But I do—I don't favor Amish kids working the machinery, either. The question is—and there is a difference between kind of a large lumber mill, if you mean should they work in an office of a lumber mill or the types of things like you said your family worked.

In many cases, quite frankly, we're dealing with relatively small sized businesses where there isn't the separation that you would get in a large lumber mill. Therefore, I do believe that the safety considerations here, and I've met with the safety committee over in Elkhart County, Indiana, as they're trying to work for how to provide more safety to the kids on the farm and other places, because they realize they have obligations as parents and as a community.

What I do believe however is, is that when you don't have other options that are apparent, that we have to be a little more flexible or we shut them down. Much like I am one of—unlike many of my colleagues, I don't favor the repeal of affirmative action. I favor different things where different groups haven't had the opportunity or need a break. I believe there is a role of government to say this is a special case. And I believe these people are a special case, and that we are squeezing them in so many different ways that they're going to be gone.

Mr. PAYNE. I certainly would hope that there could be something found that could fill the void of 14-year-olds. There's no question about that. I just still have a reservation about the safety. I think we ought to be thinking since it's five years ago we came up with the same outcome, a Democratic administration, even Democrats perhaps even controlling some of the Committees. It's not even a partisan issue. It's basically a constitutional issue. It's an issue of safety. It's an issue that the outcomes, and if you read the testimony from five years ago, it's the same arguments.

I just think that we should look at other kinds of industries that really could serve the purpose. In my district at one time we had half a million people that lived in Newark. We had all kinds of jobs. When kids would come out of high school, they could drop out of high school, 16 they could get work, not in dangerous types, but there were jobs.

We don't have any more jobs. Five hundred thousand people dropped down to about 215,000 because kids that I grew up with, their children had to leave Newark because there were no jobs. It's sad. We saw our city just crumble down and decay and young people move away. Where they went, I don't know. But they had to leave there, and that's unfortunate and we suffered from it, and we now have come up with some solutions of trying to have service

type employment and other things like that to try to bring—to stop the trend out of our area.

But I think that these are problems that we confront as we evolve as a nation and as a community, and I am certainly, like I said, very empathetic with the situation. However, I have to be truthful that I do think that we should not alter the Fourteenth and the First Amendment to accommodate this situation.

Thank you, Mr. Chairman. I appreciate your giving me the extra time, and I'll yield back. Thank you.

Chairman NORWOOD. Thank you, Mr. Payne. There will not be another round of questions. I've allowed everybody to run over the red light pretty good, and I think we've had a really good dialogue.

I appreciate the Subcommittee's patience and intensity and questions, and I particularly appreciate the panel and the effort that you've made. I've just got to ask Mr. Burkholder one thing. How much—when we're talking about lifting boards, lifting lumber, what kind of weight are we talking about?

Mr. BURKHOLDER. Probably I would say 90 percent of it would probably be like 60 pounds and under. And occasionally you will get maybe a load of lumber that you saw a little thicker, like six quarter instead of four quarter. I would say 90 percent of our lumber is four quarter inch thick. And occasionally we get a six quarter, inch-and-a-half thick, and the boards vary from 8 to 12 inches, 6 to 12, and 8 to 12 feet long.

Chairman NORWOOD. Well, nothing about any of this is amusing, but it struck me a little funny when you were talking about the weight of that lumber. Where was the Labor Department when I was playing high school football at 14 years old and they wanted me to bench press 200 pounds all afternoon?

Mr. BURKHOLDER. Right. Right.

Chairman NORWOOD. I needed them then, not now. Well, I do thank all of you. Everybody had to lift. Mr. Blank, would you like to make a comment?

Mr. BLANK. Yes, I would just like to make a comment. From what our concerns are, what we're seeing in some of our communities, we have some communities where the fathers have now been working out in non-Amish businesses for the second and third generation. And industry used to move into that area because of the Amish work ethic that they had. Now we're seeing second and third generation of boys that no longer have the training our fathers had. And the industry is telling me that they see no difference now between the non-Amish and the Amish youth.

So that's the point we're trying to make here. We want to try to pass on to our next generation the work ethics that were handed down to us. And you made a comment about football. I don't mean to be derogative about your sports. I think it's honorable to give the youth something to do. However, we have in our neighborhood, our local high school just spent millions of dollars to put in a football stadium for the children under age 18. They expect those youth to be injured. They always have to have an ambulance, a doctor or a nurse on duty whenever they have a football game. And just last week, it was in the local newspaper where a young boy was injured. He broke his neck. He came very close to being paralyzed for the rest of his life because of playing football. It was determined

he did make the tackle correct. However, it was just something that happened.

Now we were talking about double standards here. I heard more than once in the Committee here they're concerned about safety for children. Where is the department on these football games?

Chairman NORWOOD. Well, and I think probably I ought to make the record straight. I come from south Georgia and tobacco country, and when it wasn't football season, all summer I was flipping 150-pound tobacco sheafs, and nobody—I wanted the Labor Department to be there then really bad.

Well, we appreciate this. I'd like for you to leave with some comfort, and I believe actually Congress is going to do the right thing again for the third time. Anything that I can help the youth of this country become more self-reliant, which is what you're trying to teach, is where we need to take America. We need to be more reliant on ourselves and learn that from our fathers and less reliant on the Federal Government.

Thank you all for your time. The Committee is now adjourned.

[Whereupon, at 12:08 p.m. the Subcommittee was adjourned.]

[Additional material submitted for the record follows:]

Statement of Herman Bontrager, Secretary/Treasurer, National Committee for Amish Religious Freedom

Thank you for the opportunity to talk with you about the unique training needs of Amish youth and preservation of the Amish way of life. I am interested in testifying on this matter for the following reasons: a) I was raised in an Amish family and community in Northern Indiana and personally benefited from the vocational and values training that is an integral part of the Amish way of life; b) I am concerned that the United States government unequivocally respects and supports the freedom of conscience of all its citizens; and c) I work with the National Committee for Amish Religious Freedom.

The National Committee for Amish Religious Freedom was organized to help the Amish regain their right to educate their own children. The Committee's most notable achievement was when the late constitutional attorney William Ball successfully defended the Amish in Wisconsin vs. Yoder in the U.S. Supreme Court. Some of the issues related to apprenticeships of Amish youth in family and Amish businesses are the same as the religious liberty issues in Wisconsin vs. Yoder.

1. The Amish and Mennonites, stemming from the 1525 Anabaptist stream of the Protestant reformation, believe that it is essential to imitate the life and spirit of Jesus and to follow his teachings in all of life. The Amish community is where individuals live out their faith. Faith for them is not only a personal belief, it is a corporate practice nurtured by the community. In the community Amish find support from fellow followers of Christ, live in harmony and support of each other, and discern how to relate redemptively to the larger world. In the Amish way of life the sacred and the secular are inseparably intertwined.
2. Amish believe that children are a gift from God. Parents, supported by the Amish community of faith, take seriously their responsibility to prepare children for life. That formation consists of wisdom, (which includes character, honesty, humility, long-suffering, concern for the welfare of others), a work ethic, commitment to quality and the vocational skills that equip children for useful adult participation in the community, in the Amish way of life.
3. The Amish way of life is both a religious and social commitment, nurtured within the Amish community as individuals live out their faith in everyday life activities. It is important that work be performed in the context of a supportive ethnic community, in other words -at home or as close to home as possible. Passing on the values of the Amish way of life and teaching the skills their children need for living in the community are a sacred trust assumed by Amish parents and the whole community. "Only Amish persons can model and teach children to be Old Order Amish If the Amish cannot teach their own children Amish ways, their religious culture will be destroyed" (Lindholm, 1993: 120-121).

4. The agrarian way of life, farming, is by far the best way to preserve the Amish way of life. Both parents are present, the family is together for work and play, children learn life skills by being with and observing their parents and other family members, children learn vocations by helping in the real work of their parents' livelihood (on the job learning, constantly supervised by someone who really cares for them), and children experience validation by doing work that contributes to the welfare of the family. Children are encouraged to be useful but are not pushed to perform tasks beyond their ability. Teaching by example is the preferred pedagogy of the Amish. Working together as a family forges a strong sense of identity, family cohesion and a sense of responsibility.
5. Occupational diversification has increased among the Amish as farming is no longer available for all. Unavailability of farmland, the high cost of investment to start farming, and competition with high tech, corporate farming have forced Amish to adopt other vocations. To preserve the family as the primary work unit and to retain control over the work environment the Amish develop small businesses so they do not need to work in large outside businesses. This emerging adaptation to keep parents and children working together makes it possible to keep their young people in a setting where they are supervised by family or others from the Amish community.
6. Whether it is on the farm or in the numerous other occupations they pursue through their own businesses and cottage industries, Amish vocational training is primarily accomplished through apprenticeships in the context of their extended families. They do not utilize high schools, vocational schools, technical schools or colleges for training. Apprenticeships adequately meet the training needs of Amish young people and help to keep them integrated in the Amish community during the crucial adolescent years. This system, which provides both technical training and values transmission in the context of the family, keeps children off the streets, out of prisons and makes them contributors to the welfare of the community at an early age. Apprenticeships are effective for this religious group and do not cost the state or federal governments anything.
7. Motivated by love for their God-given children and a commitment to equip them with practical life skills for living in the Amish community parents take very seriously the task of providing relevant training and formative experiences for their children. Learning life skills and developing a sense of responsibility are most effective when done in the context of real, meaningful work. It is important to the Amish to train children to do the best they can in their work and to do it safely. Thus, careful supervision and instruction are provided, preferably by the parents or another family member. Supervision by non-family members is also dependable since it is the heartfelt desire of Amish people to retain their children in the community and to help them become productive contributors to the welfare of the Amish community.
8. I urge you to enact legislation to amend the Fair Labor Standards Act in a manner that will make it possible for the Amish and other religious groups such as Old Order Mennonites Brethren to maintain their time-tested practice of apprenticeship. A labor code that makes it possible for the Old Order religious community to provide for vocational learning in the context of the ethnic community and family will help to preserve the Old Order way of life. The Old Order way of life is first and foremost a matter of conscience, based on religious faith. Apprenticeships, one of the few acceptable means available to Amish and other Old Order groups to bring up their children in the heart of the community, are, in effect, a religious practice for them. Apprenticeships are the means for holistic formation of Old Order youth, they are not inappropriate child labor practices that exploit children in large factories to serve the profit motives of outside investors. It is of compelling interest to the state to assure that there is adequate provision for these religious groups, the Amish and other Old Orders, to train and bring up their children according to the dictates of their conscience and their faith.
9. The relief sought through an amendment to the Fair Labor Standards Act is to provide flexibility that permits Amish and other Old Order youth ages 14 to 18 years to learn skills and values by working in what are the typical and common businesses operated by Amish and other Old Order groups. It is not to compromise their safety. Supervision by adult family members or other adults from the Amish community and certain limitations on activities these youth may perform are acceptable requirements.
10. Anabaptist faith understands that all aspects of life, whether spiritual or material, whether worship or work, are to be lived humbly under the Lordship of Christ. Religious faith is the basis for the Amish way of life. The U.S. constitution assures liberty for all citizens to believe and practice their faith as

conscience dictates. The nation's laws need to uphold that religious liberty. Amish apprenticeships do not present any threat to public health and safety nor to the welfare of any segment of society.

Wisconsin vs. Yoder set a strong precedent in support of Amish providing education and training for their children in ways that preserve their community.

Thank you for your consideration in this matter that is vital to the interests of the Amish and other religious communities.

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