

*Testimony of*  
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*before the*  
**U.S. House of Representatives Committee on Small Business**  
**Subcommittee on Agriculture, Energy and Trade**

*regarding*  
**The Future of the Family Farm:**  
**The Effect of Proposed DOL Regulations on Small Business Producers**

**Thursday, February 2, 2012**

Chairman Tipton, Ranking Member Critz, Members of the Committee, thank you for the invitation to today's hearing. It is an honor to testify before this panel on the proposed regulations limiting the ability of youth to work on a family farm. I am Rick Ebert, a third generation dairy farmer from Blairsville, Westmoreland County, Pennsylvania where I operate Will-Mar-Re Farms in partnership with my brother, Bill. We milk 80 Holstein cows, feed approximately 60 heifers, and grow corn, soybeans and hay on 450 acres – most of which is used in the feed ration for our cows. As today's dairy operations go, we are indeed a small business.

My brother and I take great pride in caring for our dairy cattle, and in providing quality milk which we ship to Turner Dairy, another small family business. Though most of our milk is consumed in the Pittsburgh metropolitan area as fluid milk, some of it is also used for other products such as ice cream and local cheeses.

I appear before you not only as a farmer, but also as a parent. My wife Diane, who is here with me today, and I raised four wonderful children, the youngest of whom turned eighteen last Friday. Though I am proud of our family farming operation, I am more proud of the children Diane and I have raised, and the valuable lessons they learned while working on the farm. These life lessons of hard work, perseverance, stewardship, resourcefulness, teamwork and responsibility are rarely replicated anywhere in the lives of children outside the farm atmosphere.

I am very concerned over the proposed regulation put forth by the U.S. Department of Labor (DOL). Let me briefly identify my greatest concerns with DOL's proposed rule on child labor restrictions, as I understand them.

### **Parental Exemption**

I challenge DOL's claim that the exemption for children working for their parents farms is unchanged. Clearly, DOL states in the proposed rule that "the 'parent or person standing the place of the parent' shall be a human being and not an institution or facility, such as a corporation, business, partnership, orphanage, school, church or a farm dedicated to the rehabilitation of delinquent children." As discussed in my introduction, my farm is a partnership with my brother. Such an approach by DOL would have made the employment of his children or mine unacceptable by DOL's standards. DOL appears to be reserving the right to tell operators of a farm like mine that they cannot hire their own children, nieces, nephews or grandchildren to help part-time in the summer. The new language significantly changes the scope and meaning of

the exemption. My farm is a prime example of how that specific change would limit the ability of our own children, were they still less than 16 years of age, to help in the family business.

### **Limitations of Working with Livestock**

My children all worked in various capacities in our family's operation, as did my brother's three kids. Throughout their pre-teen and teen years, my four children helped feed the baby calves and care for the younger stock around the farm. This chore involves feeding the calves from a bottle and transitioning them to a solid feed ration over time. While it does require direct contact with the animal, there is little, if any, risk involved. If you've ever fed a baby calf, surely you will know the most dangerous part of that chore is smiling so much that it hurts. In all seriousness though, I was constantly mindful of each child's abilities and matched those abilities with the task at hand. After displaying responsibility and the capacity to care for the cows, my children would learn how to milk in the tie stall area, feed the cows, and learn to monitor them for signs of stress or sickness.

As I understand the proposed rule, DOL would limit the ability of youth to milk cows, which my children have often done. The rule would also likely restrict the ability of children to work with calves, which is a very rewarding experience and an appropriate life lesson for today's youth. I fear that this rule will also restrict the ability of youth to be engaged with any livestock for the purposes of ag education (particularly FFA and 4-H).

### **Student Learners**

I have several concerns with areas covered under the topic of student learners. First, DOL increased the requirement for safety courses from 15 to 90 hours. This change, in practical application, will limit the ability of farm youth in operating even the smallest of tractors performing the safest of tasks. In my area, there are two main delivery methods of farm safety training for youth: agriculture education programs at the high school (in conjunction with the FFA program) and cooperative extension programs (in conjunction with 4-H). Like this federal government, school districts are forced to make difficult choices regarding spending and programming. Derry Area School District, the only remaining district in Westmoreland County, Pennsylvania with an agriculture education program, was forced to cut its ag ed budget by fifty percent due to fiscal constraints. Last year, we had two ag teachers, instructing 120 students in

14 class offerings (many of which spanned two periods). This year, we are left with one ag teacher, reaching only 80 students in 6 (single period) class offerings. Similarly, state legislators slashed the Penn State Cooperative Extension budget by nearly 20% for the current program year. My local Extension office has two staff persons who work with the 4-H and safety programs. Since one is slated to retire within the next few years, we fear – because of the pattern of funding cuts seen by Pennsylvania’s Land Grant University for Extension – that we will be reduced to one agent in this program area. If that trend plays out in Westmoreland County, both the high school-delivered program and Land Grant delivered program will meet only half of the demand for ag education and safety courses. Now, our school’s remaining ag teacher must still offer instruction on ag risk management, sound business strategies, agronomy, animal science, horticulture and farm marketing, and if this rule passes find time to teach another 75 classroom hours on farm safety.

Limiting the ability of non-farm youth to gain practical experience while working on a farm is another challenge with the proposed rule. As written now, 14 and 15 year old youth would be restricted from engaging in various on-farm activities unless the student is enrolled in ag education curriculum and completed the 90 hours of safety training. In my area, there are several students who enjoy working on a neighbor’s farm during the summer for various reasons, but they are not enrolled in an ag education program; either because their school does not offer ag education, or because they have no desire to pursue a career in agriculture. However, the work performed by these students is still valuable and the lessons learned on the farm can apply to many different careers, including public service. In many of the rural parts of this country, non-farm summer jobs are scarce. Limiting the ability of non-farm youth (who are not enrolled in agricultural education programming, or where an ag program is not available) may very well limit the ability of those students to obtain a job to earn and save money for college.

One more note regarding the learner exemptions. You may not know it, but the city of Philadelphia has one of the largest agricultural high schools in the nation. W.B. Saul, in the Philadelphia School District, gives non-farm students a unique educational experience by weaving academic requirements, including agricultural education, with intra-curricular activities thorough the FFA program. A major component of the agriculture education program is the Supervised Agricultural Experience (SAE), which creates real hands-on learning opportunities that benefit the student. These SAEs enhance W.B. Saul’s education offerings beyond what is

traditionally provided by general education curricula. I fear that DOL's proposed restriction to youth under the age of 16 years will prevent opportunities for non-farm students, like those at W.B. Saul, to develop valuable and much needed skills, preparing them for careers in agriculture, food science, food safety and beyond.

### **Height Restrictions**

As my boys were growing up, they would help me unload hay from the hay wagon for storage in the barn. The platforms of my hay wagons stand approximately four feet off the ground. My children would roll and/or toss me the hay bales so I could place them on the mechanical elevator that lifts the bales to their storage location, in the hay loft. Any kid who has worked on a farm understands the pecking order of "putting hay away." Those just starting and who are still developing muscle assist an adult on the wagon where little lifting is required. As muscle tone develops and farm kids grow in age, they have, historically, graduated to placing the bales on the elevator, under the watchful eye of the responsible adult. This involves more lifting, dexterity, and skill of placement. When I was growing up, and it was my children's experience as well, the pinnacle of the job is realized when you got to stack the bales (almost in the fashion of the computer game *Tetris*) in the hay loft. Working on the hay wagon (when climbing on top of bales) and in the barn's hay loft occurs at elevations over six feet on my farm. DOL's height restrictions may be intended for 30 foot ladders, but unfortunately it would disallow the process of placing hay in storage on many farms.

### **Restrictions of Powered Equipment**

As my children grew older and I observed improved hand-eye coordination, I would start my children around ages 13 or 14 on the smallest of tractors on the farm, working on flat ground, performing tasks involving virtually no risk, such as raking hay. Again, I must reiterate, that I matched every child's capabilities with the task at hand. Not every kid was comfortable on the tractor, so I used their interest and abilities elsewhere on the family farm where their efforts were best suited.

Just like an automobile, farm machinery and farm buildings require maintenance. Throughout the year, I would change the oil in the farms' tractors and trucks, and replace necessary parts on all sorts of equipment. Again, mindful of safety, I would take any opportunity

to teach that skill to my children, allowing them to learn in a hands-on environment. Whether it was an impact wrench to loosen tractor tires, a screw-gun to repair the barn door, a power-washer to clean the tractors and implements when finished for the season, or running the electric feed cart to provide sustenance to the cattle, my children were safely operating powered equipment all around the farm with the appropriate level of adult supervision and safety precautions.

As proposed, DOL's rule is far too broad, restricting the operation of "all machines, equipment, implements, vehicles, and/or devices operated by any other power source other than human hand or foot power." DOL further defines the term "operating" to include "cleaning, oiling and repairing" of the equipment; "connecting or disconnecting an implement or any of its parts to or from such equipment;" or "any other activity involving physical contact associated with the operation or maintenance of the equipment."

If taken literally, DOL's standards would prohibit most activities around the farm. The jobs I have just described as normal activities on my farm, would be off limits for youth. Without being too harshly critical of DOL's definition of powered equipment, there is but only one device my children used on the farm that would pass muster with DOL – a bicycle – and that offers little utility when trying to carry bottles of milk or bales of hay to feed calves. Fortunately, the days of hand- and foot-powered farm equipment have passed as technology has aided the development and use of much safer and more efficient technology to accomplish farm tasks.

Like any parent, I was always concerned for my children's safety. In fact, I still am today. There are certain tasks on the farm that I know exceed the capabilities of each of my *adult* children. There are also pieces of equipment that some of my children have not developed efficiency in operating. On my farm, no one operates equipment unless I am comfortable with their ability and the level of risk associated with the task. I would never allow my child to perform a chore I myself would not do, nor would I allow them to carry out a job that was beyond their ability to accomplish safely.

### **Impact on Future Careers**

Today, I've spent a lot of time discussing my concerns with the DOL rule as it relates to my family farm operation. The real takeaway however, is that working on the farm directly shaped the chosen career path of my children. My daughter, who spent a lot of time in the 4-H and the state dairy princess program, grew up working directly with our milk cows. She is now

employed in the agricultural lending industry. Josh, my oldest son, was competent around equipment, but demonstrated great ability while working with the cows. Today, he is an animal nutritionist. My middle son, Jonathan, was the equipment-minded child. He is away at college studying automotive mechanics, with the intention of involving himself with heavy construction equipment or farm machinery upon graduation. Jake, my youngest, is still in his career search, but he is exploring the fields of ag policy and agriculture engineering. It is clear that my children, through their farm experiences, have found much needed and rewarding career paths because of their work on the farm, not in spite of it.

I would hope that DOL's proposed rule does not result in a vacuum of qualified or interested employees in the agriculture industry or anywhere along the food chain a generation from now, for lack of involvement and exposure to today's farming activities.

### **Concluding Thoughts**

Thank you for the opportunity to express concerns over the proposed DOL youth restrictions, particularly the impacts on small farms like mine. I thank the committee and its leadership for your attention to his matter. However, the one item I did not cover is: what happens to my farm now that my children are all grown? Unfortunately, that answer may lay in what DOL does, or fails to do in withdrawing, or in the very least – revising – its proposed rule.

As a farmer I know I need to use the right tool for the job. It's a lesson I shared with my children. If there was a problem that DOL needed to fix, I would argue the wrong tool was used, and it was used in excess.