

103D CONGRESS  
1ST SESSION

# H. R. 5

To amend the National Labor Relations Act and the Railway Labor Act  
to prevent discrimination based on participation in labor disputes.

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## IN THE HOUSE OF REPRESENTATIVES

JANUARY 5, 1993

Mr. CLAY introduced the following bill; which was referred to the Committee  
on Education and Labor

FEBRUARY 17, 1993

Additional sponsors: Mr. BONIOR, Mr. FORD of Michigan, Mr. GEPHARDT, Mr. MINETA, Mr. ANDREWS of New Jersey, Mr. ANDREWS of Maine, Mr. APPELEGATE, Mr. BACCHUS of Florida, Mr. BARRETT of Wisconsin, Mr. BERMAN, Mr. BORSKI, Mr. CARDIN, Mr. CLYBURN, Mr. COSTELLO, Mr. COYNE, Mr. DE LUGO, Ms. DELAURO, Mr. DEFazio, Mr. DELLUMS, Mr. DICKS, Mr. DURBIN, Mr. EDWARDS of California, Mr. ENGEL, Mr. FILNER, Mr. FOGLIETTA, Mr. FRANK of Massachusetts, Mr. FROST, Mr. GLICKMAN, Mr. GONZALEZ, Mr. GENE GREEN of Texas, Mr. HAMILTON, Mr. HINCHEY, Mr. HOCHBRUECKNER, Mr. HOLDEN, Mr. HUGHES, Mr. KANJORSKI, Ms. KAPTUR, Mrs. KENNELLY, Mr. KILDEE, Mr. KLINK, Mr. LAFALCE, Mr. LEHMAN, Mrs. MALONEY, Mr. McCLOSKEY, Mr. MCHALE, Mr. MCHUGH, Mrs. MEEK, Mr. MILLER of California, Mrs. MINK, Mr. MOAKLEY, Mr. MORAN, Mr. MURTHA, Mr. NADLER, Mr. NEAL of Massachusetts, Ms. NORTON, Mr. OBEY, Mr. OLVER, Mr. OWENS, Mr. PALLONE, Mr. PAYNE of New Jersey, Ms. PELOSI, Mr. PENNY, Mr. POMEROY, Mr. RAHALL, Mr. REYNOLDS, Mr. ROEMER, Mr. RUSH, Mr. SANDERS, Mr. SCHUMER, Mr. SERRANO, Mr. SKAGGS, Mr. SMITH of New Jersey, Mr. STARK, Mr. STOKES, Mr. TORRICELLI, Mrs. UNSOELD, Ms. VELÁZQUEZ, Mr. VENTO, Mr. VISCLOSKY, Mr. WASHINGTON, Mr. WAXMAN, Mr. WILLIAMS, Mr. WISE, Ms. WOOLSEY, Mr. STRICKLAND, Miss COLLINS of Michigan, Mr. MARTINEZ, Mr. OBERSTAR, Mr. MURPHY, Mr. SCOTT, Ms. ESHOO, Mr. KOPETSKI, Mr. WYNN, Mr. GUTIERREZ, Ms. ENGLISH of Arizona, Mr. DIXON, Mr. WILSON, Mr. STUPAK, Mr. RANGEL, Mr. LANTOS, Mr. HASTINGS, Mr. EVANS, and Mrs. BYRNE

FEBRUARY 24, 1993

Rereferred jointly to the Committees on Education and Labor, Energy and  
Commerce, and Public Works and Transportation

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## **A BILL**

To amend the National Labor Relations Act and the Railway  
Labor Act to prevent discrimination based on participa-  
tion in labor disputes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. PREVENTION OF DISCRIMINATION DURING**  
4                               **AND AT THE CONCLUSION OF LABOR DIS-**  
5                               **PUTES.**

6       Section 8(a) of the National Labor Relations Act (29  
7 U.S.C. 158(a)) is amended—

8               (1) by striking the period at the end of para-  
9               graph (5) and inserting “; or”, and

10              (2) by adding at the end thereof the following  
11              new paragraph:

12              “(6) to promise, to threaten, or to take other  
13              action—

14              “(i) to hire a permanent replacement for  
15              an employee who—

16              “(A) at the commencement of a labor  
17              dispute was an employee of the employer

1 in a bargaining unit in which a labor orga-  
2 nization—

3 “(I) was the certified or recog-  
4 nized exclusive representative, or

5 “(II) at least 30 days prior to the  
6 commencement of the dispute had  
7 filed a petition pursuant to section  
8 9(c)(1) on the basis of written author-  
9 izations by a majority of the unit em-  
10 ployees, and the Board has not com-  
11 pleted the representation proceeding;  
12 and

13 “(B) in connection with that dispute  
14 has engaged in concerted activities for the  
15 purpose of collective bargaining or other  
16 mutual aid or protection through that  
17 labor organization; or

18 “(ii) to withhold or deny any other employ-  
19 ment right or privilege to an employee, who  
20 meets the criteria of subparagraphs (A) and  
21 (B) of clause (i) and who is working for or has  
22 unconditionally offered to return to work for  
23 the employer, out of a preference for any other  
24 individual that is based on the fact that the in-  
25 dividual is performing, has performed, or has

1           indicated a willingness to perform bargaining  
2           unit work for the employer during the labor dis-  
3           pute.”.

4 **SEC. 2. PREVENTION OF DISCRIMINATION DURING AND AT**  
5                   **THE CONCLUSION OF RAILWAY LABOR DIS-**  
6                   **PUTES.**

7           Paragraph Fourth of section 2 of the Railway Labor  
8 Act (45 U.S.C. 152) is amended—

9           (1) by inserting “(a)” after “Fourth.”; and

10          (2) by adding at the end the following:

11          “(b) No carrier, or officer or agent of the carrier,  
12 shall—

13           “(1) offer or grant the status of a permanent  
14 replacement employee to an individual for perform-  
15 ing work in a craft or class for the carrier during  
16 a dispute which involves the craft or class and which  
17 is between the carrier and the labor organization  
18 that is acting as the collective bargaining representa-  
19 tive involved in the dispute; or

20           “(2) offer or grant an individual any other em-  
21 ployment preference based on the fact that such in-  
22 dividual performed work in a craft or class, or indi-  
23 cated a willingness to perform such work, during a  
24 dispute over an individual who—

1           “(A) was an employee of the carrier at the  
2 commencement of the dispute;

3           “(B) in connection with such dispute has  
4 exercised the right to join, to organize, to assist  
5 in organizing, or to bargain collectively through  
6 the labor organization that is acting as the col-  
7 lective bargaining representative involved in the  
8 dispute; and

9           “(C) is working for, or has unconditionally  
10 offered to return to work for, the carrier.”.

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