

Union Calendar No. 61

103D CONGRESS
1ST SESSION

H. R. 5

[Report No. 103-116, Parts I, II and III]

A BILL

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

JUNE 8, 1993

Reported from the Committee on Public Works and Transportation, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

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

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. APPEGATE, 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

APRIL 19, 1993

Additional sponsors: Mr. WYDEN, Ms. FURSE, Ms. HARMAN, Mr. CARR, Mr.
SMITH of Iowa, Mr. ACKERMAN, Mrs. SCHROEDER, Mr. TRAFICANT, Mr.
FLAKE, Mr. FAZIO, Mr. McDERMOTT, Mr. SHARP, Mr. SABO, Mr. GEJD-
ENSON, Mr. JEFFERSON, Mr. KLEIN, Mr. SAWYER, Mr. FINGERHUT, Mr.
TORRES, Mr. SKELTON, Ms. WATERS, Mr. LEVIN, Mr. LIPINSKI, Mr.
BARLOW, Mrs. LOWEY, Mr. JACOBS, Mr. KLECZKA, Mr. PETERSON of
Florida, Mr. SLATTERY, Mr. TOWNS, Ms. EDDIE BERNICE JOHNSON of
Texas, Mr. RICHARDSON, Mr. COLEMAN, Mr. BECERRA, Mr. LAROCOCCO,
Mr. MANN, Mr. BROWN of Ohio, Ms. ROYBAL-ALLARD, Mr. CONDIT, Mr.
MOLLOHAN, Mr. PASTOR, Mr. LEWIS of Georgia, Mr. HAMBURG, Mr.
BLACKWELL, Mr. TUCKER, Mr. CONYERS, Mr. JOHNSON of South Da-
kota, Ms. MCKINNEY, Mr. WHEAT, Mr. DINGELL, Mr. MFUME, Ms.
SCHENK, Mr. SWETT, Mr. SWIFT, Mr. DEUTSCH, Mr. HALL of Ohio, Mr.
PETERSON of Minnesota, Mr. BARCIA, Mr. MANTON, Mr. McNULTY, Mr.
BROWN of California, Mr. MEEHAN, Mr. REED, Mr. POSHARD, Mr.
STUDDS, Ms. SLAUGHTER, Mr. GORDON, Mr. BEVILL, Ms. BROWN of
Florida, Mr. HOYER, Mr. MATSUI, Mr. KENNEDY, Mr. YATES, Mr.
BILBRAY, Mr. SYNAR, Ms. LONG, Mr. ABERCROMBIE, Mr. MARKEY, Mr.
VOLKMER, and Mr. KREIDLER

MAY 27, 1993

Reported from the Committee on Education and Labor with amendments

[Omit the part struck through and insert the part printed in italic]

JUNE 8, 1993

Reported from the Committee on Energy and Commerce

JUNE 8, 1993

Additional sponsors: Mrs. COLLINS of Illinois, Ms. SHEPHERD, Mr. FIELDS
of Louisiana, Ms. DANNER, Mr. HILLIARD, Mr. CLEMENT, Mr.
SARPALIUS, Mr. INSLEE, Mr. SANGMEISTER, Ms. CANTWELL, Mr.
MENENDEZ, and Mr. MINGE

JUNE 8, 1993

Reported from the Committee on Public Works and Transportation, commit-
ted to the Committee of the Whole House on the State of the Union, and
ordered to be printed

A BILL

To amend the National Labor Relations Act and the Railway Labor Act to prevent discrimination based on participation 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. SHORT TITLE.**

4 *This Act may be cited as the “Cesar Chavez Workplace*
5 *Fairness Act”.*

6 **SECTION 1. SEC. 2. PREVENTION OF DISCRIMINATION DUR-**
7 **ING AND AT THE CONCLUSION OF LABOR DIS-**
8 **PUTES.**

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

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

13 (2) by adding at the end thereof the following
14 new paragraph:

15 “(6) to promise, to threaten, or to take other
16 action—

17 “(i) to hire a permanent replacement for
18 an employee who—

19 “(A) at the commencement of a labor
20 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
3 dispute.”.

4 **SEC. 2. 3. PREVENTION OF DISCRIMINATION DURING AND**
5 **AT THE CONCLUSION OF RAILWAY LABOR**
6 **DISPUTES.**

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.”.