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(Original Signature of Member)

118TH CONGRESS  
1ST SESSION

# H. R.

To reform the labor laws of the United States, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

Mr. ALLEN introduced the following bill; which was referred to the Committee  
on \_\_\_\_\_

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# A BILL

To reform the labor laws of the United States, and for  
other purposes.

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 “Employee Rights Act”.

5 **SEC. 2. ENHANCED EMPLOYEE RIGHTS.**

6 The National Labor Relations Act is amended in sec-  
7 tion 9(a) (29 U.S.C. 159(a)) by striking “designated or  
8 selected for the purposes of collective bargaining” and in-

1 serring “for the purposes of collective bargaining selected  
2 by secret ballot in an election conducted by the Board,”.

3 **SEC. 3. EMPLOYEE PRIVACY.**

4 (a) NOTICE OF RIGHTS AND PROTECTIONS; VOTER  
5 REGISTRATION LISTS.—Section 8 of the National Labor  
6 Relations Act (29 U.S.C. 158) is amended by adding at  
7 the end the following:

8 “(2) Whenever the Board directs an election  
9 under section 9(c) or approves an election agree-  
10 ment, the employer of employees in the bargaining  
11 unit shall, not later than two business days after the  
12 Board directs such election or approves such election  
13 agreement, provide a voter list to a labor organiza-  
14 tion that has petitioned to represent such employees.  
15 Such voter list shall include the names of all employ-  
16 ees in the bargaining unit and not more than one  
17 additional form of personal contact information for  
18 the employee (such as a telephone number, an email  
19 address, or a mailing address) chosen by the em-  
20 ployee in writing. The voter list shall be provided in  
21 a searchable electronic format generally approved by  
22 the Board unless the employer certifies that the em-  
23 ployer does not possess the capacity to produce the  
24 list in the required form. Not later than nine months  
25 after the date of enactment of the Employee Rights

1 Act, the Board shall promulgate regulations imple-  
2 menting the requirements of this paragraph.

3 “(3) It shall be an unfair labor practice for an  
4 employer to violate any requirement under this sub-  
5 section.”.

6 (b) LABOR ORGANIZATION USE OF PERSONAL IN-  
7 FORMATION.—Section 8(b) of the National Labor Rela-  
8 tions Act (29 U.S.C. 158(b)) is amended—

9 (1) in paragraph (6), by striking “; and” and  
10 inserting a semicolon;

11 (2) in paragraph (7), by striking “8(b).” and  
12 inserting “8(b); and”; and

13 (3) by adding at the end the following:

14 “(8) to fail to protect the personal information  
15 of an employee received for an organizing drive, to  
16 use such information for any reason other than a  
17 representation proceeding, or to use such informa-  
18 tion after the conclusion of a representation pro-  
19 ceeding.”.

20 (c) RIGHT NOT TO SUBSIDIZE LABOR ORGANIZATION  
21 NONREPRESENTATIONAL ACTIVITIES.—Title I of the  
22 Labor-Management Reporting and Disclosure Act of 1959  
23 (29 U.S.C. 411 et seq.) is amended by adding at the end  
24 the following:

1 **“SEC. 106. RIGHT NOT TO SUBSIDIZE LABOR ORGANIZA-**  
2 **TION NONREPRESENTATIONAL ACTIVITIES.**

3 “No employee’s labor organization dues, fees, assess-  
4 ments, or other contributions shall be used or contributed  
5 to any person, organization, or entity for any purpose not  
6 directly related to the labor organization’s collective bar-  
7 gaining or contract administration functions on behalf of  
8 the represented unit employee unless the employee mem-  
9 ber, or nonmember required to make such payments as  
10 a condition of employment, authorizes such expenditure in  
11 writing, after a notice period of not less than 35 days.  
12 An initial authorization provided by an employee under  
13 the preceding sentence shall expire not later than 1 year  
14 after the date on which such authorization is signed by  
15 the employee. There shall be no automatic renewal of an  
16 authorization under this section.”.

17 **SEC. 4. EMPLOYMENT RELATIONSHIPS.**

18 (a) AMENDMENTS TO THE FAIR LABOR STANDARDS  
19 ACT OF 1938 TO HARMONIZE THE DEFINITION OF EM-  
20 PLOYEE.—

21 (1) DEFINITION OF EMPLOYEE.—Section  
22 3(e)(1) of the Fair Labor Standards Act of 1938  
23 (29 U.S.C. 203(e)(1)) is amended by inserting be-  
24 fore the period the following: “, as determined under  
25 the usual common law rules”.

1           (2) DEFINITION OF EMPLOY.—Section 3(g) of  
2           the Fair Labor Standards Act of 1938 (29 U.S.C.  
3           203(g)) is amended by inserting “an employee” after  
4           “permit”.

5           (b) CLARIFICATION OF JOINT EMPLOYMENT.—

6           (1) NATIONAL LABOR RELATIONS ACT.—Sec-  
7           tion 2(2) of the National Labor Relations Act (29  
8           U.S.C. 152(2)) is amended—

9                   (A) by striking “The term ‘employer’” and  
10                   inserting “(A) The term ‘employer’”; and

11                   (B) by adding at the end the following:

12                           “(B) An employer may be considered a  
13                           joint employer of the employees of another em-  
14                           ployer only if each employer directly, actually,  
15                           and immediately, and not in a limited and rou-  
16                           tine manner, exercises significant control over  
17                           the essential terms and conditions of employ-  
18                           ment of the employees of the other employer,  
19                           such as hiring such employees, discharging such  
20                           employees, determining the rate of pay and ben-  
21                           efits of such employees, supervising such em-  
22                           ployees on a day-to-day basis, assigning such  
23                           employees a work schedule, position, or task, or  
24                           disciplining such employees.”.

1           (2) FAIR LABOR STANDARDS ACT OF 1938.—  
2           Section 3(d) of the Fair Labor Standards Act of  
3           1938 (29 U.S.C. 203(d)) is amended—

4                   (A) by striking “‘Employer’ includes” and  
5                   inserting “(1) ‘Employer’ includes”; and

6                   (B) by adding at the end the following:

7                   “(2) An employer may be considered a joint  
8                   employer of the employees of another employer for  
9                   purposes of this Act only if each employer meets the  
10                  criteria set forth in section 2(2)(B) of the National  
11                  Labor Relations Act (29 U.S.C. 152(2)(B)) except  
12                  that, for purposes of determining joint-employer sta-  
13                  tus under this Act, the terms ‘employee’ and ‘em-  
14                  ployer’ referenced in such section shall have the  
15                  meanings given such terms in this section.”.

16           (c) PROVISION OF TECHNICAL ASSISTANCE.—Not-  
17           withstanding any other provision of law, under the Fair  
18           Labor Standards Act of 1938 (29 U.S.C. 201 et seq.),  
19           the National Labor Relations Act (29 U.S.C. 151 et seq.),  
20           or any other Federal law, none of the following may be  
21           construed, alone or in combination with any other factor,  
22           as establishing an employer and employee relationship be-  
23           tween a franchisor (or any employee of the franchisor) and  
24           a franchisee (or any employee of the franchisee):

1           (1) The franchisor (or any employee of the  
2 franchisor) provides the franchisee (or any employee  
3 of the franchisee) with, or requires such franchisee  
4 (or any employee of the franchisee) to use, a hand-  
5 book, or other training, on sexual harassment,  
6 human trafficking, workplace violence, discrimina-  
7 tion, or opportunities for apprenticeships or scholar-  
8 ships.

9           (2) The franchisor (or any employee of the  
10 franchisor) requires the franchisee (or any employee  
11 of the franchisee) to adopt a policy on sexual harass-  
12 ment, human trafficking, workplace violence, dis-  
13 crimination, opportunities for apprenticeships or  
14 scholarships, child care, or paid leave, including a  
15 requirement for such franchisee (or any employee of  
16 the franchisee) to report to the franchisor (or any  
17 employee of the franchisor) any violations or sus-  
18 pected violations of such policy.

19 **SEC. 5. TRIBAL SOVEREIGNTY.**

20           Section 2 of the National Labor Relations Act (29  
21 U.S.C. 152) is amended—

22           (1) in paragraph (2), by inserting “or any In-  
23 dian Tribe, or any enterprise or institution owned  
24 and operated by an Indian Tribe and located on its  
25 Indian lands,” after “subdivision thereof,”; and

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

2 “(15) The term ‘Indian Tribe’ means any In-  
3 dian Tribe, band, nation, pueblo, or other organized  
4 group or community which is recognized as eligible  
5 for the special programs and services provided by  
6 the United States to Indians because of their status  
7 as Indians.

8 “(16) The term ‘Indian’ means any individual  
9 who is a member of an Indian Tribe.

10 “(17) The term ‘Indian lands’ means—

11 “(A) all lands within the limits of any In-  
12 dian reservation;

13 “(B) any lands title to which is either held  
14 in trust by the United States for the benefit of  
15 any Indian Tribe or Indian or held by any In-  
16 dian Tribe or Indian subject to restriction by  
17 the United States against alienation; and

18 “(C) any lands in the State of Oklahoma  
19 that are within the boundaries of a former res-  
20 ervation (as defined by the Secretary of the In-  
21 terior) of a Federally recognized Indian Tribe.”.