

103<sup>D</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 226

To amend the National Labor Relations Act to give employers and performers in the live performing arts the same rights given by section 8(f) of such Act to employers and employees in the construction industry, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JANUARY 5, 1993

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

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## A BILL

To amend the National Labor Relations Act to give employers and performers in the live performing arts the same rights given by section 8(f) of such Act to employers and employees in the construction industry, 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 “Live Performing Art-  
5 ists Labor Relations Act”.

1 **SEC. 2. EXTENDING SECTION 8(f) TO THE LIVE PERFORM-**  
2 **ING ARTS INDUSTRY.**

3 Section 8(f) of the National Labor Relations Act (29  
4 U.S.C. 158(f)) is amended—

5 (1) by redesignating clauses (1) through (4) as  
6 clauses (A) through (D), respectively;

7 (2) by inserting “(1)” after “(f)”;

8 (3) by striking “clause (1)” and inserting  
9 “clause (A)”; and

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

11 “(2) It shall not be an unfair labor practice under  
12 subsections (a) and (b) of this section for an employer who  
13 hires persons or contracts for the services of persons en-  
14 gaged in the live performing arts to make an agreement  
15 covering such persons who are engaged (or who, upon  
16 their employment, will be engaged) in the live performing  
17 arts with a labor organization of which performing artists  
18 are members (not established, maintained, or assisted by  
19 an action defined in section 8(a) of this Act as an unfair  
20 labor practice) because (A) the majority status of such  
21 labor organization has not been established under the pro-  
22 visions of section 9 of this Act before the making of such  
23 agreement; or (B) such agreement requires as a condition  
24 of employment membership in such labor organization  
25 after the seventh day following the beginning of such em-  
26 ployment or the effective date of the agreement, whichever

1 is later: *Provided*, That nothing in this subsection shall  
2 set aside the final proviso of section 8(a)(3) of this Act:  
3 *Provided further*, That any agreement which would be in-  
4 valid, but for clause (A) of this paragraph, shall not be  
5 a bar to a petition filed pursuant to section 9(c) or 9(e).”.

6 **SEC. 3. TECHNICAL AND CONFORMING AMENDMENTS.**

7 (a) DEFINITION OF “EMPLOYER”.—Section 2(2) of  
8 the National Labor Relations Act (29 U.S.C. 152(2)) is  
9 amended by inserting after “directly or indirectly,” the fol-  
10 lowing: “and includes any person who is the purchaser of  
11 live musical performance services regardless of whether  
12 the performer of such services is an independent contrac-  
13 tor, employer, or employee of another employer,”.

14 (b) DEFINITION OF “EMPLOYEE”.—Section 2(3) of  
15 the Act (29 U.S.C. 152(3)) is amended by inserting after  
16 “independent contractor” the following: “except that any  
17 individual having such status who is engaged to perform  
18 live musical services (other than an employer of persons  
19 performing musical services) shall be included in the term  
20 ‘employee’”.

21 **SEC. 4. CONSTRUCTION FOR INTERNAL REVENUE CODE**  
22 **PURPOSES.**

23 Nothing in the amendments made by this Act shall  
24 be construed as affecting the treatment of individuals (as  
25 employees or independent contractors) covered by such

1 amendments for purposes of the Internal Revenue Code  
2 of 1986 or for purposes of other laws.

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