

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

# H. R. 5

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IN THE SENATE OF THE UNITED STATES

JUNE 16 (legislative day, JUNE 15), 1993

Received

JUNE 17 (legislative day, JUNE 15), 1993

Read the first time

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## AN ACT

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 Work-  
5        place Fairness Act”.

1 **SEC. 2. PREVENTION OF DISCRIMINATION DURING AND AT**  
2 **THE CONCLUSION OF LABOR DISPUTES.**

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

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

7 (2) by adding at the end thereof the following  
8 new paragraph:

9 “(6) to promise, to threaten, or to take other  
10 action—

11 “(i) to hire a permanent replacement for  
12 an employee who—

13 “(A) at the commencement of a labor  
14 dispute was an employee of the employer  
15 in a bargaining unit in which a labor orga-  
16 nization—

17 “(I) was the certified or recog-  
18 nized exclusive representative, or

19 “(II) at least 30 days prior to the  
20 commencement of the dispute had  
21 filed a petition pursuant to section  
22 9(c)(1) on the basis of written author-  
23 izations by a majority of the unit em-  
24 ployees, and the Board has not com-  
25 pleted the representation proceeding;  
26 and

1           “(B) in connection with that dispute  
2           has engaged in concerted activities for the  
3           purpose of collective bargaining or other  
4           mutual aid or protection through that  
5           labor organization; or

6           “(ii) to withhold or deny any other employ-  
7           ment right or privilege to an employee, who  
8           meets the criteria of subparagraphs (A) and  
9           (B) of clause (i) and who is working for or has  
10          unconditionally offered to return to work for  
11          the employer, out of a preference for any other  
12          individual that is based on the fact that the in-  
13          dividual is performing, has performed, or has  
14          indicated a willingness to perform bargaining  
15          unit work for the employer during the labor  
16          dispute.”.

17 **SEC. 3. PREVENTION OF DISCRIMINATION DURING AND AT**  
18 **THE CONCLUSION OF RAILWAY LABOR DIS-**  
19 **PUTES.**

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

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

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

24          “(b) No carrier, or officer or agent of the carrier,  
25 shall—

1           “(1) offer or grant the status of a permanent  
2 replacement employee to an individual for perform-  
3 ing work in a craft or class for the carrier during  
4 a dispute which involves the craft or class and which  
5 is between the carrier and the labor organization  
6 that is acting as the collective bargaining representa-  
7 tive involved in the dispute; or

8           “(2) offer or grant an individual any other em-  
9 ployment preference based on the fact that such in-  
10 dividual performed work in a craft or class, or indi-  
11 cated a willingness to perform such work, during a  
12 dispute over an individual who—

13                   “(A) was an employee of the carrier at the  
14 commencement of the dispute;

15                   “(B) in connection with such dispute has  
16 exercised the right to join, to organize, to assist  
17 in organizing, or to bargain collectively through  
18 the labor organization that is acting as the col-  
19 lective bargaining representative involved in the  
20 dispute; and

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

Passed the House of Representatives June 15, 1993.

Attest:           DONNALD K. ANDERSON,  
*Clerk.*