

106TH CONGRESS  
2D SESSION

# H. R. 5185

To amend the National Labor Relations Act to give employers and performers in the live performing arts, rights given by section 8(e) of such Act to employers and employees in similarly situated industries, to give such employers and performers 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

SEPTEMBER 14, 2000

Mr. PETERSON of Minnesota (for himself, Mr. QUINN, Mr. PHELPS, Mr. HOUGHTON, Mr. CROWLEY, Mr. UPTON, Mr. BOEHLERT, Mr. ABERCROMBIE, Mr. WU, Mr. LARSON, Mr. SHERMAN, Mr. LAFALCE, Mr. CAPUANO, and Mr. LAMPSON) introduced the following bill; which was referred to the Committee on Education and the Workforce

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## A BILL

To amend the National Labor Relations Act to give employers and performers in the live performing arts, rights given by section 8(e) of such Act to employers and employees in similarly situated industries, to give such employers and performers 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Live Performing Arts  
3 Labor Relations Amendments”.

4 **SEC. 2. EXTENDING SECTION 8(e) TO THE LIVE PER-**  
5 **FORMING ARTS INDUSTRY.**

6 Section 8(e) of the National Labor Relations Act (29  
7 U.S.C. 158(e)) is amended by striking “*Provided further*”  
8 in the second proviso and all that follows and inserting  
9 the following: “*Provided further*, That for the purposes of  
10 this subsection and subsection (b)(4)(B), the terms ‘any  
11 employer’, ‘any person engaged in commerce or in indus-  
12 try affecting commerce’, and ‘any person’, when used in  
13 relation to the terms ‘any other producer, processor, or  
14 manufacturer’, ‘any other employer’, or ‘any other person’  
15 shall not include persons in the relation of a jobber, manu-  
16 facturer, contractor, or subcontractor working on the  
17 goods or premises of the jobber or manufacturer or per-  
18 forming parts of an integrated process of production in  
19 the apparel and clothing industry or persons in the rela-  
20 tion of a leader, contractor, purchaser of live entertain-  
21 ment or live music, promoter, producer, or persons simi-  
22 larly engaged or involved in an integrated production or  
23 performance of any kind in the live entertainment indus-  
24 try: *Provided further*, That nothing in this Act shall pro-  
25 hibit the enforcement of any contract or agreement, ex-

1 pressed or implied, which is within the foregoing excep-  
2 tion.”.

3 **SEC. 3. EXTENDING SECTION 8(f) TO THE LIVE PER-**  
4 **FORMING ARTS INDUSTRY.**

5 Section 8(f) of the National Labor Relations Act (29  
6 U.S.C. 158(f)) is amended by inserting “(1)” after “(f)”,  
7 and by adding at the end the following:

8 “(2) It shall not be an unfair labor practice  
9 under subsections (a) and (b) for an employer who  
10 hires persons or contracts for the services of persons  
11 engaged in the live performing arts to make an  
12 agreement covering such persons who are engaged  
13 (or who, upon their employment, will be engaged) in  
14 the live performing arts with a labor organization of  
15 which performing artists are members (not estab-  
16 lished, maintained, or assisted by an action defined  
17 in subsection (a) as an unfair labor practice)—

18 “(A) the majority status of such labor or-  
19 ganization has not been established under the  
20 provisions of section 9 before the making of  
21 such agreement; or

22 “(B) such agreement requires as a condi-  
23 tion of employment membership in such labor  
24 organization after the seventh day following the  
25 beginning of such employment or the effective

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

8 **SEC. 4. TECHNICAL AND CONFORMING AMENDMENTS.**

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

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

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