

109<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# S. 1173

To amend the National Labor Relations Act to ensure the right of employees to a secret-ballot election conducted by the National Labor Relations Board.

---

IN THE SENATE OF THE UNITED STATES

JUNE 7, 2005

Mr. DEMINT introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

---

## A BILL

To amend the National Labor Relations Act to ensure the right of employees to a secret-ballot election conducted by the National Labor Relations Board.

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 “Secret Ballot Protec-  
5       tion Act of 2005”.

6       **SEC. 2. FINDINGS.**

7       Congress makes the following findings:

8               (1) The right of employees under the National  
9       Labor Relations Act (29 U.S.C. 151 et seq.) to  
10       choose whether to be represented by a labor organi-

1 zation by way of secret ballot election conducted by  
2 the National Labor Relations Board is among the  
3 most important protections afforded under Federal  
4 labor law.

5 (2) The right of employees to choose by secret  
6 ballot is the only method that ensures a choice free  
7 of coercion, intimidation, irregularity, or illegality.

8 (3) The recognition of a labor organization by  
9 using a private agreement, rather than a secret bal-  
10 lot election overseen by the National Labor Relations  
11 Board, threatens the freedom of employees to choose  
12 whether to be represented by a labor organization,  
13 and severely limits the ability of the National Labor  
14 Relations Board to ensure the protection of workers.

15 **SEC. 3. NATIONAL LABOR RELATIONS ACT.**

16 (a) RECOGNITION OF REPRESENTATIVE.—

17 (1) IN GENERAL.—Section 8(a)(2) of the Na-  
18 tional Labor Relations Act (29 U.S.C. 158(a)(2)) is  
19 amended by inserting before the colon the following:  
20 “or to recognize or bargain collectively with a labor  
21 organization that has not been selected by a major-  
22 ity of such employees in a secret ballot election con-  
23 ducted by the National Labor Relations Board in ac-  
24 cordance with section 9”.

1           (2) APPLICATION.—The amendment made by  
2 paragraph (1) shall not apply to collective bar-  
3 gaining relationships in which a labor organization  
4 with majority support was lawfully recognized prior  
5 to the date of enactment of this Act.

6           (b) ELECTION REQUIRED.—

7           (1) IN GENERAL.—Section 8(b) of the National  
8 Labor Relations Act (29 U.S.C. 158(b)) is amend-  
9 ed—

10                   (A) in paragraph (6), by striking “and” at  
11 the end;

12                   (B) in paragraph (7), by striking the pe-  
13 riod at the end and inserting “; and”; and

14                   (C) by adding at the end the following:

15                   “(8) to cause or attempt to cause an employer  
16 to recognize or bargain collectively with a represent-  
17 ative of a labor organization that has not been se-  
18 lected by a majority of such employees in a secret  
19 ballot election conducted by the National Labor Re-  
20 lations Board in accordance with section 9.”.

21           (2) APPLICATION.—The amendment made by  
22 paragraph (1) shall not apply to collective bar-  
23 gaining relationships that were recognized prior to  
24 the date of enactment of this Act.

1           (c) SECRET BALLOT ELECTION.—Section 9(a) of the  
2 National Labor Relations Act (29 U.S.C. 159(a)), is  
3 amended—

4           (1) by striking “Representatives” and inserting  
5 “(1) Representatives”;

6           (2) by inserting after “designated or selected”  
7 the following: “by a secret ballot election conducted  
8 by the National Labor Relations Board in accord-  
9 ance with this section”; and

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

11           “(b) The secret ballot election requirement under  
12 paragraph (1) shall not apply to collective bargaining rela-  
13 tionships that were recognized before the date of the en-  
14 actment of the Secret Ballot Protection Act of 2005.”.

15 **SEC. 4. REGULATIONS.**

16           Not later than 6 months after the date of the enact-  
17 ment of this Act, the National Labor Relations Board  
18 shall review and revise all regulations promulgated prior  
19 to such date of enactment to implement the amendments  
20 made by this Act.

○