

115TH CONGRESS
1ST SESSION

S. 2069

To amend the National Labor Relations Act to clarify the requirements for meeting the definition of the term “employee”, and for other purposes.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 2, 2017

Mr. BROWN (for himself, Mrs. GILLIBRAND, Mr. DURBIN, Mr. FRANKEN, Mr. MERKLEY, Mrs. MURRAY, Mr. SANDERS, Ms. BALDWIN, and Mr. BOOKER) 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 clarify the requirements for meeting the definition of the term “employee”, 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 “Protecting Workers’
5 Freedom to Organize Act”.

6 **SEC. 2. DEFINITIONS UNDER THE NATIONAL LABOR RELA-**
7 **TIONS ACT.**

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

1 (1) in paragraph (3), by adding at the end the
 2 following: “An individual performing any service
 3 shall be considered an employee (except as provided
 4 in the previous sentence) and not an independent
 5 contractor, unless—

6 “(A) the individual is free from control and
 7 direction in connection with the performance of
 8 the service, both under the contract for the per-
 9 formance of the service and in fact;

10 “(B) the service is performed outside the
 11 usual course of the business of the employer;
 12 and

13 “(C) the individual is customarily engaged
 14 in an independently established trade, occupa-
 15 tion, profession, or business of the same nature
 16 as that involved in the service performed.”; and
 17 (2) in paragraph (11)—

18 (A) by inserting “and for a majority of the
 19 individual’s work time” after “interest of the
 20 employer”;

21 (B) by striking “assign,” after “dis-
 22 charge,”; and

23 (C) by striking “or responsibly to direct
 24 them,” after “or discipline other employees,”.

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