

116TH CONGRESS  
1ST SESSION

# S. 2973

To amend the Fair Labor Standards Act of 1938 to harmonize the definition of employee with the common law.

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## IN THE SENATE OF THE UNITED STATES

DECEMBER 4, 2019

Mr. SCOTT of South Carolina (for himself and Mrs. BLACKBURN) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

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## A BILL

To amend the Fair Labor Standards Act of 1938 to harmonize the definition of employee with the common law.

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 “Modern Worker Em-  
5 powerment Act”.

6 **SEC. 2. AMENDMENTS TO THE FAIR LABOR STANDARDS**  
7 **ACT OF 1938 TO HARMONIZE THE DEFINITION**  
8 **OF EMPLOYEE.**

9 (a) **DEFINITION OF EMPLOYEE.**—Section 3(e)(1) of  
10 the Fair Labor Standards Act of 1938 (29 U.S.C.

1 203(e)(1)) is amended by inserting before the period the  
2 following: “, as determined under the usual common law  
3 rules (as applied for purposes of section 3121(d) of the  
4 Internal Revenue Code of 1986)”.

5 (b) DEFINITION OF EMPLOY.—Section 3(g) of the  
6 Fair Labor Standards Act of 1938 (29 U.S.C. 203(g)) is  
7 amended by inserting “an employee” after “permit”.

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