

116TH CONGRESS
1ST SESSION

S. 664

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

MARCH 5, 2019

Mr. BROWN (for himself, Mr. BOOKER, Mrs. GILLIBRAND, Ms. SMITH, Mrs. MURRAY, Mr. MERKLEY, Ms. BALDWIN, Mr. SANDERS, and Mr. DURBIN) 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) in paragraph (3), by adding at the end the following: “An individual performing any service shall be considered an employee (except as provided in the previous sentence) and not an independent contractor for purposes of this Act, unless—

“(A) the individual is free from control and direction in connection with the performance of the service, both under the contract for the performance of the service and in fact;

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

“(C) the individual is customarily engaged in an independently established trade, occupation, profession, or business of the same nature as that involved in the service performed.”; and

(2) in paragraph (11)—

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

(B) by striking “assign,”; and

(C) by striking “or responsibly to direct them,”.

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