

# Union Calendar No. 431

119<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 1319

[Report No. 119–505]

To amend the Fair Labor Standards Act of 1938 and the National Labor Relations Act to clarify the standard for determining whether an individual is an employee, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 13, 2025

Mr. KILEY of California (for himself, Mr. RUTHERFORD, Mr. MOOLENAAR, Mr. MESSMER, and Mr. OGLES) introduced the following bill; which was referred to the Committee on Education and Workforce

FEBRUARY 20, 2026

Additional sponsors: Mr. KEAN, Mr. GROTHMAN, Ms. STEFANIK, Mr. BURLISON, Mr. ALLEN, Mr. OWENS, Mr. ONDER, Mr. BAUMGARTNER, Mr. BURCHETT, Mrs. MILLER of Illinois, Ms. LETLOW, Mr. CARTER of Georgia, Mr. ARRINGTON, Mr. STEUBE, Mr. GILL of Texas, Mr. MURPHY, Mr. DONALDS, Mr. BABIN, and Ms. FOXX

FEBRUARY 20, 2026

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italie*]

[For text of introduced bill, see copy of bill as introduced on February 13, 2025]

# **A BILL**

To amend the Fair Labor Standards Act of 1938 and the National Labor Relations Act to clarify the standard for determining whether an individual is an 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 “Modern Worker Em-*  
5       *powerment Act”.*

6       **SECTION 2. CRITERIA FOR DETERMINING EMPLOYEE STA-**  
7                       **TUS.**

8       *Section 3(e) of the Fair Labor Standards Act of 1938*  
9       *(29 U.S.C. 203(e)) is amended—*

10               *(1) by redesignating paragraphs (2), (3), and (4)*  
11               *as paragraphs (3), (4), and (5), respectively;*

12               *(2) in paragraph (1), by striking “paragraphs*  
13               *(2), (3), and (4)” and inserting “paragraphs (3), (4),*  
14               *and (5)”;* and

15               *(3) by inserting after paragraph (1) the fol-*  
16               *lowing:*

17               *“(2)(A) An individual shall be determined to be an*  
18               *independent contractor rather than an employee of another*  
19               *person if—*

20                       *“(i) such other person does not exercise signifi-*  
21                       *cant control over the details of the way the work is*  
22                       *performed by the individual, without regard to any*  
23                       *control the other person may exercise over the final*  
24                       *result of the work performed; and*

1           “(ii) while performing such work, the individual  
 2           has the opportunities and risks inherent with entre-  
 3           preneurship, such as the discretion to exercise mana-  
 4           gerial skill, business acumen, or professional judg-  
 5           ment.

6           “(B) The following factors may not be used in deter-  
 7           mining that an individual is an employee of another per-  
 8           son:

9           “(i) Whether such other person requires the indi-  
 10          vidual to comply with legal, statutory, or regulatory  
 11          requirements.

12          “(ii) Whether such other person requires the in-  
 13          dividual to comply with health and safety standards  
 14          that are more stringent than otherwise applicable  
 15          health and safety standards.

16          “(iii) Whether such other person requires the in-  
 17          dividual to carry insurance of any kind.

18          “(iv) Whether such other person requires the in-  
 19          dividual to meet contractually agreed-upon perform-  
 20          ance standards, such as deadlines.”.

21   **SEC. 3. EMPLOYEE CLASSIFICATION UNDER THE NATIONAL**  
 22                   **LABOR RELATIONS ACT.**

23          Section 2(3) of the National Labor Relations Act (29  
 24   U.S.C. 152(3)) is amended—

1           (1) *by striking “(3) The term ‘employee’ shall”*  
2           *and inserting the following:*

3           “(3)(A) *The term ‘employee’ shall*”; and

4           (2) *by adding at the end the following:*

5           “(B) *Section 3(e)(2) of the Fair Labor Standards Act*  
6           *of 1938 (29 U.S.C. 203(e)(2)) shall be used in determining*  
7           *whether an individual is an independent contractor or an*  
8           *employee of another person.”.*

9   **SEC. 4. APPLICATION.**

10          *The amendments made by this Act shall apply with*  
11          *respect to a determination of whether an individual is an*  
12          *independent contractor or an employee of a person that is*  
13          *made on or after the date of enactment of this Act.*

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