

113TH CONGRESS
1ST SESSION

H. R. 2311

To protect employees from retaliation in the workplace based on actions
taken to protest or try to improve working conditions.

IN THE HOUSE OF REPRESENTATIVES

JUNE 11, 2013

Mr. GRAYSON introduced the following bill; which was referred to the
Committee on Education and the Workforce

A BILL

To protect employees from retaliation in the workplace based
on actions taken to protest or try to improve working
conditions.

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 “Worker Anti-Retalia-
5 tion Act”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act—

8 (1) the term “employer” means any entity
9 that—

10 (A) employs employees; and

1 (B) whose annual gross revenue when
2 added to the annual gross revenue of its parent
3 corporation and all of its affiliated corporations
4 exceeds \$5,000,000 (exclusive of excise taxes at
5 the retail level that are separately stated);

6 (2) the term “employee” means the common-
7 law employees of an employer;

8 (3) the term “parent corporation” means any
9 corporation that owns or controls at least 51 percent
10 of the voting shares or other equity in the employer
11 or an affiliated corporation; and

12 (4) the term “affiliated corporation” means any
13 corporation that shares a common parent corpora-
14 tion with an employer.

15 **SEC. 3. PROHIBITION ON RETALIATION AGAINST EMPLOY-**
16 **EES.**

17 No employer, or any of its agents, may discharge or
18 cause to be discharged or in any other manner discrimi-
19 nate against or take or threaten any adverse action, in-
20 cluding changes in working assignments or conditions, any
21 employee because the employee—

22 (1) disseminated any message on the employer’s
23 property or elsewhere, including through images,
24 handbilling, picketing, work stoppages, or gathering
25 in groups to protest conflicts with employers or to

1 help persuade employers to change working condi-
2 tions, provided the employees do not have a rep-
3 resentative for the purpose of collective bargaining
4 and the employee's actions—

5 (A) were not taken during work time, ex-
6 cept during a lawful work stoppage;

7 (B) were peaceful; and

8 (C) did not destroy or damage property of
9 the employer or block entrances or exits of the
10 employer or otherwise impede the operations of
11 the employer or the work of other employees; or

12 (2) planned any of the actions described in
13 paragraph (1), or assisted, encouraged, or supported
14 another employee in engaging in any such actions.

15 **SEC. 4. PRESUMPTION OF UNLAWFUL ACTS.**

16 Any adverse action described in section 3, levied
17 against an employee engaging in lawful actions within 90
18 days of the date of the employee's activity, shall be pre-
19 sumed unlawful and may only be rebutted by clear and
20 convincing evidence proving adverse actions were taken for
21 lawful reasons.

22 **SEC. 5. PRIVATE RIGHT OF ACTION.**

23 (a) IN GENERAL.—Any employee who believes that
24 he or she has been discharged, disciplined, or otherwise
25 discriminated against by an employer or any of its agents,

1 whether the agent was operating within the scope of em-
2 ployment or without, in violation of section 3 (or any class
3 of such employees) may bring an action in a court of com-
4 petent jurisdiction against either the employer or the of-
5 fending agent, in an individual capacity, for any of the
6 following:

7 (1) to enjoin such violation;

8 (2) to recover any pay, backpay, damages, or
9 other amounts as settlement, plus an amount equal
10 to three times the amount of such backpay and dam-
11 ages and reasonable attorneys' fees and expenses; or

12 (3) to recover civil penalties of \$1,000 per viola-
13 tion, per affected employee, per day.

14 (b) LIMITATION.—An action brought under sub-
15 section (a) may not be brought later than 3 years after
16 the affected employee knows or should have known of the
17 violation.

18 **SEC. 6. RESTRICTION ON EMPLOYER OF AN EMPLOYEE**

19 **FOUND TO BE IN VIOLATION OF THIS ACT.**

20 No employer may provide for an employee's defense,
21 backpay, damages, or settlement if that employee is found
22 to be in violation of section 3 of this Act.

23 **SEC. 7. RULE OF CONSTRUCTION.**

24 This Act shall be liberally construed to effectuate its
25 purposes. If any court finds any provision or application

1 of this Act to be invalid or inoperative, in whole or in part,
2 the remaining provisions of this Act shall remain in effect.

3 **SEC. 8. EFFECTIVE DATE.**

4 This Act shall take effect 30 days after the date of
5 enactment of this Act.

