

107TH CONGRESS
2^D SESSION

H. R. 4719

To amend the National Labor Relations Act to ensure that any business owned and operated by an Indian tribe and located on Indian lands is not considered an employer for purposes of such Act.

IN THE HOUSE OF REPRESENTATIVES

MAY 14, 2002

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

A BILL

To amend the National Labor Relations Act to ensure that any business owned and operated by an Indian tribe and located on Indian lands is not considered an employer for purposes of such Act.

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 “Tribal Labor Relations
5 Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

1 (1) The United States Constitution recognizes
2 Native American tribes as sovereign governmental
3 entities.

4 (2) Indian tribes have an inherent right to gov-
5 ern themselves consistent with the United States
6 Constitution, treaties, laws, and court decisions.

7 (3) The National Labor Relations Act expressly
8 exempts government entities from the Act.

9 (4) The National Labor Relations Board (re-
10 ferred to in this section as the ‘NLRB’) has held
11 that a tribally owned and operated business located
12 on Indian lands is exempt from the National Labor
13 Relations Act (referred to in this section as the
14 ‘NLRA’) under the Act’s exemption for government
15 entities.

16 (5) In the Fort Apache Timber Company case
17 (226 N.L.R.B. 503), the NLRB ruled that the
18 Board lacked jurisdiction over the White Mountain
19 Apache Tribe and a wholly owned and operated en-
20 terprise of the tribe because the tribe was considered
21 to be a sovereign governmental entity.

22 (6) The Federal District Court for the District
23 of Oregon expressly agreed with the NLRB’s posi-
24 tion in Fort Apache Timber by concluding that the
25 Confederated Tribes of the Warm Springs Reserva-

1 tion was “not an employer for the purposes of” the
2 NLRA.

3 (7) Some Indian tribes have used the freedom
4 they enjoy as sovereign entities to voluntarily enter
5 into labor agreements covering tribal gaming em-
6 ployees without Federal coercion.

7 (8) The report issued by the National Gaming
8 Impact Study Commission (referred to in this sec-
9 tion as ‘Commission’) recommending that—

10 (A) Indian tribes should voluntarily enter
11 into agreements to “ensure the enforceable
12 right of free association—including the right to
13 organize and bargain collectively—for employ-
14 ees of tribal casinos” and to extend to casino
15 employees “the same or equivalent protections
16 that are applicable to comparable State or pri-
17 vate-sector employees through Federal and
18 State employment laws”; and

19 (B) if the tribes do not enter into such vol-
20 untary agreements within “a reasonable period
21 of time”, Congress should enact legislation es-
22 tablishing such rights and protections;

23 is in conflict with the findings of paragraphs (1)
24 through (4).

1 (9) An Indian tribe that owns and operates a
2 business on Indian lands—

3 (A) has the right to choose whether or not
4 to enter into agreements proposed by the Com-
5 mission without legislative intervention; and

6 (B) shall not have such business consid-
7 ered as an employer for purposes of the NLRA.

8 **SEC. 3. DEFINITION OF EMPLOYER.**

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

11 (1) in paragraph (2), by inserting “or any busi-
12 ness owned and operated by an Indian tribe and lo-
13 cated on Indian lands,” after “subdivision thereof”;
14 and

15 (2) by adding at the end the following:

16 “(15) The term ‘Indian tribe’ means any Indian
17 tribe, band, nation, pueblo, or other organized group
18 or community, including any Alaska Native village
19 or regional corporation as defined in or established
20 pursuant to the Alaska Native Claims Settlement
21 Act, which is recognized as eligible for the special
22 programs and services provided by the United States
23 to Indians because of their status as Indians.

24 “(16) The term ‘Indian’ means any individual
25 who is a member of an Indian tribe.

1 “(17) The term ‘Indian lands’ means—

2 “(A) all lands within the limits of any In-
3 dian reservation; and

4 “(B) any lands title to which is either held
5 in trust by the United States for the benefit of
6 any Indian tribe or individual or held by any
7 Indian tribe or individual subject to restriction
8 by the United States against alienation;

9 “(C) any lands in the State of Oklahoma
10 that are within the boundaries of a former res-
11 ervation (as defined by the Secretary of the In-
12 terior) of a federally recognized Indian tribe.”.

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