

117TH CONGRESS
2D SESSION

S. 3747

To prohibit an employer from terminating the coverage of an employee under a group health plan while the employee is engaged in a lawful strike, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 3, 2022

Mr. BROWN (for himself, Mr. CASEY, Mr. BLUMENTHAL, Mr. BOOKER, Ms. SMITH, Mr. VAN HOLLEN, Mr. WHITEHOUSE, Mr. WYDEN, and Mr. PADILLA) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To prohibit an employer from terminating the coverage of an employee under a group health plan while the employee is engaged in a lawful strike, 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 “Striking Workers
5 Healthcare Protection Act”.

1 **SEC. 2. CONTINUATION OF COVERAGE UNDER A GROUP**
 2 **HEALTH PLAN DURING A LAWFUL STRIKE.**

3 (a) IN GENERAL.—Section 8(a) of the National
 4 Labor Relations Act (29 U.S.C. 158(a)) is amended—

5 (1) in paragraph (5), by striking the period and
 6 inserting “; and”; and

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

8 “(6) to terminate or significantly alter the cov-
 9 erage of an employee under a group health plan dur-
 10 ing the period that such employee is engaged in a
 11 lawful strike.”.

12 (b) DEFINITIONS.—Section 2 of the National Labor
 13 Relations Act (29 U.S.C. 152) is amended by adding at
 14 the end the following:

15 “(15) The term ‘group health plan’ has the meaning
 16 given the term under section 607(1) of the Employee Re-
 17 tirement Income Security Act of 1974 (29 U.S.C.
 18 1167(1)).”.

19 (c) PENALTIES.—Section 12 of the National Labor
 20 Relations Act (29 U.S.C. 162) is amended—

21 (1) by striking “SEC. 12. Any person” and in-
 22 serting the following:

23 “PENALTIES

24 “SEC. 12.

25 “(a) VIOLATIONS FOR INTERFERENCE WITH THE
 26 BOARD.—Any person”; and

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

2 “(b) CIVIL PENALTIES FOR UNFAIR LABOR PRAC-
 3 TICES RELATED TO COVERAGE UNDER A GROUP HEALTH
 4 PLAN DURING A LAWFUL STRIKE.—Any employer who
 5 commits an unfair labor practice within the meaning of
 6 section 8(a)(6) shall be subject to a civil penalty in an
 7 amount not to exceed \$50,000 for each such violation, ex-
 8 cept that, with respect to such an unfair labor practice
 9 that coincides with the discharge of an employee or that
 10 results in other serious economic harm to an employee,
 11 the Board shall double the amount of such penalty, to an
 12 amount not to exceed \$100,000, in any case where the
 13 employer has within the preceding 5 years committed an-
 14 other such violation of section 8(a)(6). A civil penalty
 15 under this subsection shall be in addition to any other
 16 remedy ordered by the Board.

17 “(c) CONSIDERATIONS.—In determining the amount
 18 of any civil penalty under subsection (b) or (d), the Board
 19 shall consider—

20 “(1) the gravity of the actions of the employer
 21 resulting in the penalty, including the impact of such
 22 actions on the charging party or on other persons
 23 seeking to exercise rights guaranteed by the Act;

24 “(2) the size of the employer;

1 “(3) the history of previous unfair labor prac-
2 tices or other actions by the employer resulting in a
3 penalty; and

4 “(4) the public interest.

5 “(d) DIRECTOR AND OFFICER LIABILITY.—If the
6 Board determines, based on the particular facts and cir-
7 cumstances presented, that a director or officer’s personal
8 liability is warranted, a civil penalty for a violation de-
9 scribed in subsection (b) may also be assessed against any
10 director or officer of the employer who directed or com-
11 mitted the violation, or had actual or constructive knowl-
12 edge of and the authority to prevent the violation and
13 failed to prevent the violation.”.

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