

118TH CONGRESS  
2D SESSION

# H. R. 8691

To prohibit forced arbitration in work disputes, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 11, 2024

Mr. NADLER (for himself and Mr. SCOTT of Virginia) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To prohibit forced arbitration in work disputes, 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 “Restoring Justice for  
5 Workers Act”.

6 **SEC. 2. PURPOSES.**

7 The purposes of this Act are to—

8 (1) prohibit predispute arbitration agreements  
9 that require arbitration of work disputes;

1           (2) prohibit retaliation against workers for re-  
2 fusing to arbitrate work disputes;

3           (3) provide protections to ensure that  
4 postdispute arbitration agreements are truly vol-  
5 untary and with the informed consent of workers;  
6 and

7           (4) amend the National Labor Relations Act to  
8 prohibit agreements and practices that interfere with  
9 employees' right to engage in concerted activity re-  
10 garding work disputes.

11 **SEC. 3. PROTECTION OF CONCERTED ACTIVITY.**

12           (a) AGREEMENTS.—Section 8(a) of the National  
13 Labor Relations Act (29 U.S.C. 158(a)) is amended—

14           (1) in paragraph (5), by striking the period at  
15 the end and inserting “; and”; and

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

17           “(6)(A) to enter into or attempt to enforce any  
18 agreement, express or implied, whereby prior to a  
19 dispute to which the agreement applies, an employee  
20 undertakes or promises not to pursue, bring, join,  
21 litigate, or support any kind of joint, class, or collec-  
22 tive claim arising from or relating to the employ-  
23 ment of such employee in any forum that, but for  
24 such agreement, is of competent jurisdiction;

1           “(B) to coerce such an employee into under-  
2           taking or promising not to pursue, bring, join, liti-  
3           gate, or support any kind of joint, class, or collective  
4           claim arising from or relating to the employment of  
5           such employee; or

6           “(C) to retaliate or threaten to retaliate against  
7           an employee for refusing to undertake or promise  
8           not to pursue, bring, join, litigate, or support any  
9           kind of joint, class, or collective claim arising from  
10          or relating to the employment of such employee:

11          *Provided*, That any agreement that violates this  
12          paragraph or results from a violation of this para-  
13          graph shall be to such extent unenforceable and  
14          void: *Provided further*, That this paragraph shall not  
15          apply to any agreement embodied in or expressly  
16          permitted by a contract between an employer and a  
17          labor organization.”.

18          (b) CONFORMING AMENDMENT.—Section 10(b) of  
19          the National Labor Relations Act (29 U.S.C. 160(b)) is  
20          amended by striking “discharge” and inserting “dis-  
21          charge, or unless the person aggrieved thereby is an em-  
22          ployee alleging a violation of section 8(a)(6) whose charge  
23          involves a postdispute arbitration agreement that meets  
24          the requirements under section 502(a)(2) of title 9, United  
25          States Code, or an agreement described in section

1 502(a)(4) of such title that meets the requirements under  
 2 subparagraphs (A) through (D) of section 502(a)(2) of  
 3 such title, in which event the six-month period shall be  
 4 computed from the day the waiting period described in  
 5 subparagraph (C) of such section ends”.

6 **SEC. 4. ARBITRATION OF WORK DISPUTES.**

7 (a) IN GENERAL.—Title 9 of the United States Code  
 8 is amended by adding at the end the following:

9 **“CHAPTER 5—ARBITRATION OF WORK**  
 10 **DISPUTES**

“Sec.

“501. Definitions.

“502. Validity and enforceability.

11 **“§ 501. Definitions**

12 “In this chapter:

13 “(1) COMMERCE; EMPLOYEE; EMPLOYER.—The  
 14 terms ‘commerce’, ‘employee’, and ‘employer’ have  
 15 the meanings given such terms in section 3 of the  
 16 Fair Labor Standards Act of 1938 (29 U.S.C. 203).

17 “(2) COVERED ENTITY.—The term ‘covered en-  
 18 tity’ means—

19 “(A) an employer; or

20 “(B) an individual or entity that is not  
 21 acting as an employer and engages the services  
 22 of a worker.

1           “(3) PREDISPUTE ARBITRATION AGREEMENT.—  
2           The term ‘predispute arbitration agreement’ has the  
3           meaning given that term in section 401.

4           “(4) PREDISPUTE JOINT-ACTION WAIVER OF A  
5           WORK DISPUTE.—The term ‘predispute joint-action  
6           waiver of a work dispute’ means an agreement under  
7           which a worker undertakes or promises not to pur-  
8           sue, bring, join, litigate, or support any kind of  
9           joint, class, or collective claim arising from or relat-  
10          ing to a work dispute that has not yet arisen at the  
11          time of the making of the agreement in any forum  
12          that, but for such agreement, is of competent juris-  
13          diction.

14          “(5) POSTDISPUTE ARBITRATION AGREE-  
15          MENT.—The term ‘postdispute arbitration agree-  
16          ment’ means any agreement to arbitrate a dispute  
17          that arose before the time of the making of the  
18          agreement.

19          “(6) POSTDISPUTE JOINT-ACTION WAIVER OF A  
20          WORK DISPUTE.—The term ‘postdispute joint-action  
21          waiver of a work dispute’ means an agreement under  
22          which a worker undertakes or promises not to pur-  
23          sue, bring, join, litigate, or support any kind of  
24          joint, class, or collective claim arising from or relat-  
25          ing to a work dispute that arose before the time of

1 the making of the agreement in any forum that, but  
2 for such agreement, is of competent jurisdiction.

3 “(7) WORK DISPUTE.—the term ‘work dis-  
4 pute’—

5 “(A) means a dispute between one or more  
6 workers (or their authorized representatives)  
7 and a covered entity arising out of or related to  
8 the work relationship or prospective work rela-  
9 tionship between the workers and the covered  
10 entity; and

11 “(B) includes—

12 “(i) a dispute regarding the terms of,  
13 payment for, advertising of, recruitment of,  
14 referring of, arranging for, or discipline or  
15 discharge in connection with such work re-  
16 lationship;

17 “(ii) a dispute arising under any law  
18 referred to or described in section 62(e) of  
19 the Internal Revenue Code of 1986, includ-  
20 ing any part of such a law not explicitly  
21 referenced in such section that relates to  
22 protecting individuals on a basis that is  
23 protected under a law referred to or de-  
24 scribed in such section; and

1                   “(iii) a dispute in which an individual  
2                   or individuals seek certification—

3                   “(I) as a class under rule 23 of  
4                   the Federal Rules of Civil Procedure;

5                   “(II) as a collective action under  
6                   section 16(b) of the Fair Labor  
7                   Standards Act of 1938 (29 U.S.C.  
8                   216(b)); or

9                   “(III) under a comparable rule or  
10                  provision of State law.

11                 “(8) WORKER.—The term ‘worker’ means—

12                   “(A) an employee; or

13                   “(B) an individual who is engaged by a  
14                   covered entity to perform services or work as an  
15                   independent contractor (regardless of the label  
16                   or classification assigned or used by the covered  
17                   entity).

18         **“§ 502. Validity and enforceability**

19                 “(a) IN GENERAL.—Notwithstanding any other chap-  
20                 ter of this title—

21                   “(1) no predispute arbitration agreement shall  
22                   be valid or enforceable if it requires arbitration of a  
23                   work dispute;

1           “(2) no postdispute arbitration agreement that  
2 requires arbitration of a work dispute shall be valid  
3 or enforceable unless—

4           “(A) the agreement was not required by  
5 the covered entity, obtained by coercion or  
6 threat of adverse action, or made a condition of  
7 employment, work, or any employment-related  
8 or work-related privilege or benefit;

9           “(B) each worker entering into the agree-  
10 ment was informed in writing using sufficiently  
11 plain language likely to be understood by the  
12 average worker of—

13           “(i) the right of the worker under  
14 paragraph (5) to refuse to enter the agree-  
15 ment without retaliation; and

16           “(ii) the protections under section  
17 8(a)(6) of the National Labor Relations  
18 Act (29 U.S.C. 158(a)(6));

19           “(C) each worker entering into the agree-  
20 ment entered the agreement after a waiting pe-  
21 riod of not fewer than 45 days, beginning on  
22 the date on which the worker was provided both  
23 the final text of the agreement and the disclo-  
24 sures required under subparagraph (B); and



1           “(D) each worker entering into the agree-  
2           ment affirmatively consented to the agreement  
3           in writing;

4           “(3) no predispute joint-action waiver of a work  
5           dispute shall be valid or enforceable;

6           “(4) no postdispute joint-action waiver of a  
7           work dispute shall be valid or enforceable, unless the  
8           agreement to waive meets the requirements of sub-  
9           paragraphs (A) through (D) of paragraph (2); and

10          “(5) no covered entity may retaliate or threaten  
11          to retaliate against a worker for refusing to enter  
12          into an agreement that provides for arbitration of a  
13          work dispute.

14          “(b) STATUTE OF LIMITATIONS.—During the waiting  
15          period described in subsection (a)(2)(C), the statute of  
16          limitations for any claims that arise from or form the basis  
17          for the applicable work dispute shall be tolled.

18          “(c) CIVIL ACTION.—Any person who is injured by  
19          reason of a violation of subsection (a)(5) may bring a civil  
20          action in the appropriate district court of the United  
21          States against the covered entity within 2 years of the vio-  
22          lation, or within 3 years if such violation is willful. Relief  
23          granted in such an action shall include a reasonable attor-  
24          ney’s fee, other reasonable costs associated with maintain-  
25          ing the action, and any appropriate relief authorized by

1 section 706(g) of the Civil Rights Act of 1964 (42 U.S.C.  
2 2000e-5(g)) or by section 1977A(b) of the Revised Stat-  
3 utes (42 U.S.C. 1981a(b)).

4 “(d) APPLICABILITY.—

5 “(1) IN GENERAL.—This chapter applies to cov-  
6 ered entities and workers engaged in activity affect-  
7 ing commerce to the fullest extent permitted by the  
8 Constitution of the United States, including the  
9 work of persons engaged in domestic service in  
10 households, as described in section 2(a) of the Fair  
11 Labor Standards Act of 1938 (29 U.S.C. 202(a)).

12 “(2) ARBITRATION AGREEMENTS.—

13 “(A) APPLICATION DETERMINED UNDER  
14 FEDERAL LAW.—An issue as to whether this  
15 chapter applies to an arbitration agreement  
16 shall be determined under Federal law.

17 “(B) APPLICATION DETERMINED BY  
18 COURT.—The applicability of this chapter to an  
19 agreement to arbitrate and the validity and en-  
20 forceability of an agreement to which this chap-  
21 ter applies shall be determined by a court, rath-  
22 er than an arbitrator, regardless of whether any  
23 contractual provision purports to delegate such  
24 determinations to the arbitrator and irrespec-  
25 tive of whether the party resisting arbitration

1 challenges the arbitration agreement specifically  
2 or in conjunction with other terms of the con-  
3 tract containing such agreement.

4 “(C) COLLECTIVE BARGAINING AGREE-  
5 MENTS.—Nothing in this chapter shall apply to  
6 any arbitration provision in a contract between  
7 a covered entity and a labor organization, ex-  
8 cept that no such arbitration provision shall  
9 have the effect of waiving the right of a worker  
10 to seek judicial enforcement of a right arising  
11 under a provision of the Constitution of the  
12 United States, the constitution of a State, or a  
13 Federal or State statute, or public policy aris-  
14 ing therefrom.”.

15 (b) TECHNICAL AND CONFORMING AMENDMENTS.—

16 (1) IN GENERAL.—Title 9 of the United States  
17 Code is amended—

18 (A) in section 1, by striking “of seamen,”  
19 and all that follows through “interstate com-  
20 merce”;

21 (B) in section 2, by inserting “or 5” before  
22 the period at the end;

23 (C) in section 208, in the second sentence,  
24 by inserting “or 5” before the period at the  
25 end; and

1 (D) in section 307, in the second sentence,  
 2 by inserting “or 5” before the period at the  
 3 end.

4 (2) TABLE OF CHAPTERS.—The table of chap-  
 5 ters for title 9, United States Code, is amended by  
 6 adding at the end the following:

“5. Arbitration of work disputes ..... 501.”.

7 **SEC. 5. EFFECTIVE DATE.**

8 This Act, and the amendments made by this Act,  
 9 shall take effect on the date of enactment of this Act and  
 10 shall apply with respect to any dispute or claim that arises  
 11 or accrues on or after such date, including any dispute  
 12 or claim to which an agreement predating such date ap-  
 13 plies.

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