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(Original Signature of Member)

118TH CONGRESS
1ST SESSION

H. R. _____

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

IN THE HOUSE OF REPRESENTATIVES

Mr. DELUZIO introduced the following bill; which was referred to the Committee on _____

A BILL

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

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Striking and Locked Out Workers Healthcare Protection Act''.

SEC. 2. CONTINUATION OF COVERAGE UNDER A GROUP HEALTH PLAN DURING A LOCK-OUT OR A LAWFUL STRIKE.

(a) LOCK-OUT.—Section 8(a) of the National Labor Relations Act (29 U.S.C. 158(a)) is amended—

(1) in paragraph (5), by striking the period and inserting a semicolon; and

(2) by adding at the end the following:

''(6) to terminate or alter the coverage of an employee under a group health plan during the period that such employer is taking action to lock-out, suspend, or otherwise withhold employment from the employee in order to influence the position of such employee or the representative of such employee in collective bargaining prior to a strike; and''.

(b) STRIKE.—Section 8(a) of such Act (29 U.S.C. 158(a)), as so amended, is further amended by adding at the end the following:

''(7) to terminate or alter the coverage of an employee under a group health plan during the period that such employee is engaged in a lawful strike.''.

(c) DEFINITION OF GROUP HEALTH PLAN.—Section 2 of the National Labor Relations Act (29 U.S.C. 152) is amended by adding at the end the following:

''(15) The term 'group health plan' has the meaning given the term under section 607(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1167(1)).''.

SEC. 3. PENALTIES.

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

(1) by striking ''**SEC. 12.** Any person'' and inserting the following:

''SEC. 12. PENALTIES.

''(a) VIOLATIONS FOR INTERFERENCE WITH THE BOARD.—Any person''; and

(2) by adding at the end the following:

''(b) CIVIL PENALTIES FOR UNFAIR LABOR PRACTICES RELATED TO COVERAGE UNDER A GROUP HEALTH PLAN DURING A LOCK-OUT.—Any employer who commits an unfair labor practice within the meaning of section 8(a)(6) shall be subject to a civil penalty in an amount not to exceed $75,000 for each violation, except that, with respect to such an unfair labor practice that coincides with the discharge of an employee or that results in other serious economic harm to an employee, the Board shall double the amount of such penalty, to an amount not to exceed $150,000, in any case where the employer has within the preceding 5 years committed another violation of section

8(a)(6). A civil penalty under this subsection shall be in addition to any other remedy ordered by the Board.

''(c) CIVIL PENALTIES FOR UNFAIR LABOR PRACTICES RELATED TO COVERAGE UNDER A GROUP HEALTH PLAN DURING A LAWFUL STRIKE.—Any employer who commits an unfair labor practice within the meaning of section 8(a)(7) shall be subject to a civil penalty in an amount not to exceed $50,000 for each violation, except that, with respect to such an unfair labor practice that coincides with the discharge of an employee or that results in other serious economic harm to an employee, the Board shall double the amount of such penalty, to an amount not to exceed $100,000, in any case where the employer has within the preceding 5 years committed another violation of section 8(a)(7). A civil penalty under this subsection shall be in addition to any other remedy ordered by the Board.

''(d) DIRECTOR AND OFFICER LIABILITY.—If the Board determines, based on the particular facts and circumstances presented, that a director or officer's personal liability is warranted, a civil penalty for a violation described in subsection (b) or (c) may also be assessed against any director or officer of the employer who directed or committed the violation, or had actual or con-

structive knowledge of and the authority to prevent the violation and failed to prevent the violation.

''(e) CONSIDERATIONS.—In determining the amount of any civil penalty under subsection (b), (c), or (d), the Board shall consider—

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

''(2) the size of the employer;

''(3) the history of previous unfair labor practices or other actions by the employer resulting in a penalty; and

''(4) the public interest.''.