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

Mr. Brown (for himself, Mr. Casey, Mr. Blumenthal, Mr. Booker, Ms. Smith, Mr. Van Hollen, Mr. Whitehouse, and Mr. Wyden) introduced the following bill; which was read twice and 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 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 Workers Healthcare Protection Act”.
2

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-
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 “SEC. 12. PENALTIES.
24 “(a) VIOLATIONS FOR INTERFERENCE WITH THE
25 BOARD.—Any person”; and
26 (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 Lawful Strike.—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 $50,000 for each such 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 such 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) Considerations.—In determining the amount of any civil penalty under subsection (b) 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 the 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.

“(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) may also be assessed against any director or officer of the employer who directed or committed the violation, or had actual or constructive knowledge of and the authority to prevent the violation and failed to prevent the violation.”.