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NMMA POLICY BRIEF

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Oppose the "Employee Free Choice Act"

S. 1041/ H.R. 800 Upends Long-Established Federal Labor Law

THE PROBLEM

H.R. 800, the "Employee Free Choice Act," was passed by the House on March 1, 2007. Due to a strong push by the business community, including NMMA, the identical Senate version, S. 1041, was subsequently defeated on June 26, 2007 when Senate Democrats failed to attain the necessary votes to invoke closure and end debate on the measure. H.R. 800 / S. 1041, if enacted, would replace a longstanding federally supervised secret ballot election for union organizing with a public process called "card check" that would expose employees to union intimidation and coercion and deny them the fundamental right of a secret ballot election. Under this so-called card check system, paid union organizers try to persuade workers to sign cards saying that they favor union representation. This public voting system would enable borderline intimidation and rough tactics by union organizers and undermine the fundamental democratic concept of the secret ballot. Unions continue to actively pursue the passage of the "Employee Free Choice Act" and plan to reintroduce the bill in the 111th Congress next year.

THE IMPACT

The Employee Free Choice Act eliminates over 70 years of precedent established in federal law to protect the anonymity of an employee's vote and leaves all employees vulnerable to coercion and intimidation during union organizing drives and, for those employees not asked to sign a card, gives them no option to choose whether or not to join a union. Instead, the proposed "card check" system would allow unions to organize simply if a majority of employees sign a card, and the signatures are made public to employers, union organizers and co-workers. This leaves employees wide open to potential intimidation and is clearly undemocratic. Personal decisions about joining a union should remain private.

In addition, the act imposes binding arbitration on first contracts for private, unionized employers, meaning that if agreements are not reached between unionized workers and employers in a collective bargaining agreement, the dispute will be sent to a federal arbitrator. If the arbitrator cannot secure an agreement, the federal government would step in and set the contract terms for two years, with no ability for the employer to appeal. Another significant change under EFCA is that employers will risk triple back pay for certain unlawful discharges (which will certainly encourage the filing of even frivolous charges) and civil penalties of up to $20,000 for each unfair labor practice found to be willful or repeated.

If the Employee Free Choice Act becomes law, the recreational marine industry could be exposed to unionization efforts by labor groups. This act is the number one priority for organized Labor, and will be a major issue of concern in the 111th Congress.

THE SOLUTION

NMMA along with the National Association of Manufacturers (NAM) and other business groups vigorously opposed this piece of legislation and were able to defeat it in the Senate so far this year. However, the Employee Free Choice act will undoubtedly pose a threat to manufacturers in the future and NMMA will continue to protect its members' interests by making the fight against it one of our top priorities.

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