

115TH CONGRESS
2D SESSION

H. R. 5632

To prohibit agreements between employers that directly restrict the current or future employment of any employee.

IN THE HOUSE OF REPRESENTATIVES

APRIL 26, 2018

Mr. ELLISON (for himself, Mr. NADLER, Mr. CICILLINE, and Mr. CROWLEY) introduced the following bill; which was referred to the Committee on Education and the Workforce, and in addition to the Committees on Energy and Commerce, and the Judiciary, 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

A BILL

To prohibit agreements between employers that directly restrict the current or future employment of any employee.

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 “End Employer Collu-
5 sion Act”.

6 **SEC. 2. UNFAIR METHODS ON COMPETITION RELATING TO**
7 **RESTRICTIVE EMPLOYMENT AGREEMENTS.**

8 (a) DEFINITIONS.—In this section:

1 (1) EMPLOYER.—The term “employer” has the
2 meaning given the term in section 3 of the Fair
3 Labor Standards Act of 1938 (29 U.S.C. 203).

4 (2) RESTRICTIVE EMPLOYMENT AGREEMENT.—
5 the term “restrictive employment agreement” means
6 any agreement that—

7 (A) is between 2 or more employers, in-
8 cluding through a franchise agreement or a
9 contractor-subcontractor agreement; and

10 (B) prohibits or restricts 1 employer from
11 soliciting or hiring another employer’s employ-
12 ees or former employees.

13 (b) CONDUCT PROHIBITED.—It shall be unlawful for
14 any entity to—

15 (1) enter into a restrictive employment agree-
16 ment; or

17 (2) enforce or threaten to enforce a restrictive
18 employment agreement.

19 (c) ENFORCEMENT.—

20 (1) PRIVATE RIGHT OF ACTION.—

21 (A) IN GENERAL.—Any person who fails to
22 comply with subsection (b) shall be liable to any
23 individual in an amount equal to the sum—

24 (i) of any actual damages sustained
25 by the individual as a result of the failure;

1 (ii) such amount of punitive damages
2 as the court may allow; and

3 (iii) in the case of any successful ac-
4 tion to enforce any liability under this sec-
5 tion, the costs of the action together with
6 reasonable attorney's fees as determined by
7 the court.

8 (B) VENUE.—Any person may bring a civil
9 action under subparagraph (A) in any appro-
10 priate district court of the United States.

11 (2) FEDERAL TRADE COMMISSION.—

12 (A) IN GENERAL.—The Commission shall
13 enforce this section in the same manner, by the
14 same means, and with the same jurisdiction,
15 powers, and duties as though all applicable
16 terms and provisions of the Federal Trade
17 Commission Act (15 U.S.C. 41 et seq.) were in-
18 corporated into and made a part of this section.

19 (B) PRIVILEGES AND IMMUNITIES.—Any
20 person who violates subsection (b) shall be sub-
21 ject to the penalties and entitled to the privi-
22 leges and immunities provided in the Federal
23 Trade Commission Act (15 U.S.C. 41 et seq.).

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