

114TH CONGRESS
1ST SESSION

H. R. 2873

To prohibit employers from requiring low-wage employees to enter into covenants not to compete, to require employers to notify potential employees of any requirement to enter into a covenant not to compete, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 24, 2015

Mr. CROWLEY (for himself, Ms. LINDA T. SÁNCHEZ of California, Mr. ELLISON, and Mr. POCAN) introduced the following bill; which was referred to the Committee on Education and the Workforce

A BILL

To prohibit employers from requiring low-wage employees to enter into covenants not to compete, to require employers to notify potential employees of any requirement to enter into a covenant not to compete, 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 “Limiting the Ability
5 to Demand Detrimental Employment Restrictions Act” or
6 the “LADDER Act”.

1 **SEC. 2. DEFINITIONS.**

2 In this Act:

3 (1) **COMMERCE.**—The term “commerce” has
4 the meaning given such term in section 3 of the Fair
5 Labor Standards Act of 1938 (29 U.S.C. 203).

6 (2) **COVENANT NOT TO COMPETE.**—The term
7 “covenant not to compete” means an agreement—

8 (A) between an employee and employer
9 that restricts such employee from performing—

10 (i) any work for another employer for
11 a specified period of time;

12 (ii) any work in a specified geo-
13 graphical area; or

14 (iii) work for another employer that is
15 similar to such employee’s work for the
16 employer included as a party to the agree-
17 ment; and

18 (B) that is entered into after the date of
19 enactment of this Act.

20 (3) **EMPLOYEE; EMPLOYER; ENTERPRISE; EN-**
21 **TERPRISE ENGAGED IN COMMERCE OR IN THE PRO-**
22 **DUCTION OF GOODS FOR COMMERCE; GOODS.**—The
23 terms “employee”, “employer”, “enterprise”, “enter-
24 prise engaged in commerce or in the production of
25 goods for commerce”, and “goods” have the mean-

1 ings given such terms in section 3 of the Fair Labor
2 Standards Act of 1938 (29 U.S.C. 203).

3 (4) LIVABLE HOURLY RATE.—The term “livable
4 hourly rate” means—

5 (A) for the fiscal year of the date of enact-
6 ment of this Act, the greater of—

7 (i) \$15 per hour; or

8 (ii) the hourly rate equal to the min-
9 imum wage required by the applicable
10 State or local minimum wage law; and

11 (B) for each succeeding fiscal year, the
12 greater of—

13 (i) the adjusted amount described in
14 section 3(e); or

15 (ii) the hourly rate equal to the min-
16 imum wage required by the applicable
17 State or local minimum wage law.

18 (5) LOW-WAGE EMPLOYEE.—The term “low-
19 wage employee” means an employee who, excluding
20 any overtime compensation required under section 7
21 of the Fair Labor Standards Act of 1938 (29 U.S.C.
22 207) or under an applicable State law, receives from
23 the applicable employer an hourly compensation that
24 is less than the livable hourly rate.

1 (6) SECRETARY.—The term “Secretary” means
2 the Secretary of Labor.

3 (7) STATE.—The term “State” has the mean-
4 ing given such term in section 3 of the Fair Labor
5 Standards Act of 1938 (29 U.S.C. 203).

6 **SEC. 3. PROHIBITING COVENANTS NOT TO COMPETE FOR**
7 **LOW-WAGE EMPLOYEES.**

8 (a) IN GENERAL.—No employer shall enter into a
9 covenant not to compete with any low-wage employee of
10 such employer, who in any workweek is engaged in com-
11 merce or in the production of goods for commerce (or is
12 employed in an enterprise engaged in commerce or in the
13 production of goods for commerce).

14 (b) NOTICE.—An employer who employs any low-
15 wage employee, who in any workweek is engaged in com-
16 merce or in the production of goods for commerce (or is
17 employed in an enterprise engaged in commerce or in the
18 production of goods for commerce), shall post notice of
19 the provisions of this Act in a conspicuous place on the
20 premises of such employer.

21 (c) INFLATION ADJUSTMENT.—

22 (1) IN GENERAL.—For each fiscal year after
23 the fiscal year of the date of enactment of this Act,
24 the Secretary shall adjust the amount set forth in
25 section 2(4)(A)(i) for inflation by increasing such

1 amount, as in effect for the preceding fiscal year, by
2 the annual percentage increase in the Consumer
3 Price Index for Urban Wage Earners and Clerical
4 Workers (United States city average, all items, not
5 seasonally adjusted), or its successor publication, as
6 determined by the Bureau of Labor Statistics.

7 (2) ROUNDING AMOUNTS.—The amounts ad-
8 justed under paragraph (1) shall be rounded to the
9 nearest multiple of \$0.05.

10 **SEC. 4. DISCLOSURE REQUIREMENT FOR COVENANTS NOT**
11 **TO COMPETE.**

12 In order for an employer to require an employee, who
13 in any workweek is engaged in commerce or in the produc-
14 tion of goods for commerce (or is employed in an enter-
15 prise engaged in commerce or in the production of goods
16 for commerce) and is not a low-wage employee, to enter
17 into a covenant not to compete, the employer shall, prior
18 to the employment of such employee and at the beginning
19 of the process for hiring such employee, have disclosed to
20 such employee the requirement for entering into such cov-
21 enant.

22 **SEC. 5. ENFORCEMENT.**

23 (a) IN GENERAL.—The Secretary shall receive, inves-
24 tigate, attempt to resolve, and enforce a complaint of a
25 violation of section 3 or 4 in the same manner that the

1 Secretary receives, investigates, and attempts to resolve
2 a complaint of a violation of section 6 or 7 of the Fair
3 Labor Standards Act of 1938 (29 U.S.C. 206 and 207),
4 subject to subsection (b).

5 (b) CIVIL FINE.—

6 (1) MAXIMUM FINE.—The Secretary shall im-
7 pose a civil fine—

8 (A) with respect to any employer who vio-
9 lates section 3(a) or 4, an amount not to exceed
10 \$5,000 for each employee who was the subject
11 of such violation; and

12 (B) with respect to any employer who vio-
13 lates section 3(b), an amount not to exceed
14 \$5,000.

15 (2) CONSIDERATION.—In determining the
16 amount of any civil fine under this subsection, the
17 Secretary shall consider the appropriateness of the
18 fine to the size of the employer subject to such fine
19 and the gravity of the applicable violation.

○