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

IN THE SENATE OF THE UNITED STATES

MARCH 1, 2018

Mr. Booker (for himself and Ms. Warren) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

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

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “End Employer Collu-
sion Act”.

SEC. 2. UNFAIR METHODS ON COMPETITION RELATING TO

RESTRICTIVE EMPLOYMENT AGREEMENTS.

(a) DEFINITIONS.—In this section:
(1) Employer.—The term “employer” has the meaning given the term in section 3 of the Fair Labor Standards Act of 1938 (29 U.S.C. 203).

(2) Restrictive employment agreement.—The term “restrictive employment agreement” means any agreement that—

(A) is between two or more employers, including through a franchise agreement or a contractor-subcontractor agreement; and

(B) prohibits or restricts one employer from soliciting or hiring another employer’s employees or former employees.

(b) Conduct prohibited.—It shall be unlawful for any entity to—

(1) enter into a restrictive employment agreement; or

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

(c) Enforcement.—

(1) Private right of action.—

(A) In general.—Any person who fails to comply with subsection (b) shall be liable to any individual in an amount equal to the sum—

(i) of any actual damages sustained by the individual as a result of the failure;
(ii) such amount of punitive damages as the court may allow; and

(iii) in the case of any successful action to enforce any liability under this section, the costs of the action together with reasonable attorney’s fees as determined by the court.

(B) VENUE.—Any person may bring a civil action under subparagraph (A) in any appropriate district court of the United States.

(2) FEDERAL TRADE COMMISSION.—

(A) POWERS OF COMMISSION.—

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

(ii) PRIVILEGES AND IMMUNITIES.—Any person who violates subsection (b) shall be subject to the penalties and entitled to the privileges and immunities pro-