

115TH CONGRESS  
2D SESSION

# S. 2480

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.

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 two or more employers, in-  
8 cluding through a franchise agreement or a  
9 contractor-subcontractor agreement; and

10                   (B) prohibits or restricts one employer  
11 from soliciting or hiring another employer’s em-  
12 ployees 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) POWERS OF COMMISSION.—

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

21 (ii) PRIVILEGES AND IMMUNITIES.—  
22 Any person who violates subsection (b)  
23 shall be subject to the penalties and enti-  
24 tled to the privileges and immunities pro-

1 vided in the Federal Trade Commission  
2 Act (15 U.S.C. 41 et seq.).

○