

116TH CONGRESS
1ST SESSION

H. R. 3920

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

IN THE HOUSE OF REPRESENTATIVES

JULY 23, 2019

Mr. NADLER (for himself and Mr. CICILLINE) introduced the following bill;
which was referred to the Committee on the Judiciary

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 OF COMPETITION AND AGREE-**
7 **MENTS IN RESTRAINT OF TRADE RELATING**
8 **TO RESTRICTIVE EMPLOYMENT AGREE-**
9 **MENTS.**

10 (a) DEFINITIONS.—In this section:

1 (1) EMPLOY; EMPLOYER; EMPLOYEE.—The
2 terms “employ”, “employer”, and “employee” have
3 the meanings given such terms in section 3 of the
4 Fair Labor Standards Act of 1938 (29 U.S.C. 203).

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

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

11 (B) prohibits, restricts, or in any way lim-
12 its one employer from employing, soliciting, en-
13 ticing, or hiring another employer’s employees
14 or former employees.

15 (b) CONDUCT PROHIBITED.—It shall be unlawful for
16 any entity to—

17 (1) enter into a restrictive employment agree-
18 ment; or

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

21 (c) VIOLATION.—An entity who engages in the con-
22 duct described in subsection (b) not later than the date
23 which is 6 months after the date of enactment of this Act
24 shall be liable for—

1 (1) entering into a contract in restraint of trade
2 or commerce under section 1 of the Sherman Act
3 (15 U.S.C. 1); and

4 (2) engaging in an unfair method of competi-
5 tion under section 5(a)(1) of the Federal Trade
6 Commission Act (15 U.S.C. 45(a)(1)).

7 (d) RESTRICTIVE EMPLOYMENT AGREEMENTS.—
8 Nothing in this Act may be construed to reduce the
9 amount of damages available to a plaintiff in a case involv-
10 ing a restrictive employment agreement that is between
11 2 or more employers that are not affiliated with each other
12 through a franchise agreement or contractor-subcon-
13 tractor agreement.

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