

118TH CONGRESS
1ST SESSION

S. 2535

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

IN THE SENATE OF THE UNITED STATES

JULY 26, 2023

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

10 (B) prohibits or restricts one such em-
 11 ployer from soliciting or hiring the employees or
 12 former employees of another such employer.

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 vio-
 22 lates subsection (b) shall be liable to any indi-
 23 vidual harmed as a result of such violation in
 24 an amount equal to the sum—

1 (i) of any actual damages sustained
2 by the individual as a result of the viola-
3 tion;

4 (ii) such amount of punitive damages
5 as the court may allow; and

6 (iii) in the case of any successful ac-
7 tion to enforce any liability under this sec-
8 tion, the costs of the action and any rea-
9 sonable attorney's fees, as determined by
10 the court.

11 (B) VENUE.—An individual described in
12 subparagraph (A) may bring a civil action
13 under subparagraph (A) in any appropriate dis-
14 trict court of the United States.

15 (2) FEDERAL TRADE COMMISSION.—

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

23 (B) PRIVILEGES AND IMMUNITIES.—Any
24 person who violates subsection (b) shall be sub-
25 ject to the penalties and entitled to the privi-

- 1 leges and immunities provided in the Federal
- 2 Trade Commission Act (15 U.S.C. 41 et seq.).

