



October 3, 2017

Dear Member of Congress:

AMERICAN COMMITMENT



The undersigned organizations write in strong support of legislation, the Save Local Business Act (H.R. 3441), sponsored by Rep. Bradley Byrne (R-Ala.). This bill would restore and harmonize National Labor Relations Act and Fair Labor Standards Act standards on when two or more businesses are deemed to be joint employers. Congressional action is urgent and necessary to fix a problem—caused by the National Labor Relations Board (NLRB)—that is negatively impacting countless small businesses and their employees nationwide.

Prior to August 2015, the standard used by the NLRB made it easy to understand who is and is not a joint employer. A joint employer relationship existed when one company exercised “direct and immediate” control over another company’s workforce. But under the NLRB’s new definition, as stated in the case *Browning Ferris Industries*, joint employer liability could be triggered by a company exercising vaguely defined indirect control or unexercised potential control. Even a code of corporate social responsibility for business partners could be found to establish joint employer status.

H.R. 3441 would reinstate the longstanding definition of what constitutes a joint employer. For decades, that standard and legal framework helped foster the creation of thousands of beneficial business relationships. It allowed entrepreneurs to launch franchise businesses and for contractors to thrive.

A policy that makes businesses liable for the practices of their contractors and will cause companies to make changes that leave people worse off, such as ending those relationships with smaller businesses. That means fewer job opportunities, fewer opportunities for entrepreneurs, and fewer chances for American businesses to grow and create jobs.

Employers that have contractual arrangements with franchisees and other small businesses could be forced to take greater control of their operations to mitigate the nearly unlimited liability to which the new joint employer standard could expose them. Many independent small businesspeople value the autonomy and flexibility of being their own boss. Many of these job creators have expressed fears about how they will lose autonomy that made them want to start a business.

Those fears are well founded. Research from the American Action Forum suggests failing to revert to the “direct and immediate” control standard could inflict devastating impact on the economy. They [estimated](#) that the NLRB’s new joint employer standard could result in 1.7 million fewer jobs.



Congress should restore the traditional joint employer standard that has served all stakeholders—workers, consumers, and employers—well for decades. Government policies should promote, not harm, innovation, flexible work arrangements, and entrepreneurship.



For these reasons, we urge you to vote Yes on Rep. Byrne’s H. R. 3441. Thank you for considering our views.



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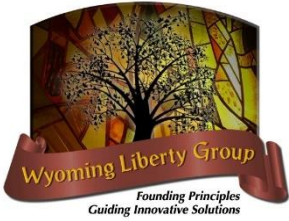
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