



September 10, 2015

The Honorable John Kline  
Chairman, U.S. House Committee on Education and the Workforce  
2181 Rayburn House Office Building  
Washington, D.C. 20515

Dear Chairman Kline:

On behalf of the National Federation of Independent Business (NFIB), the nation's leading small business advocacy organization, I am writing in support of H.R. 3459, *the Protecting Local Business Opportunity Act*. This legislation would restore a reasonable legal standard for determining joint employer status.

On August 27, 2015, the National Labor Relations Board (NLRB) overturned more than 30-years of precedent by declaring *Browning-Ferris Industries* to be a joint employer with *Leadpoint*, a staffing services company. This highly controversial decision adopted a dramatically expanded definition of a joint employer, and has the potential to inflict serious harm to the small business community.

Under the previous standard, a small business would be deemed a joint employer only if it exercised direct and immediate control over another company's employees, including the opportunity to hire, fire, discipline, supervise, or direct an individual. Previously, most franchisors, franchisees, and subcontractors were treated as separate independent businesses. In the *Browning-Ferris* case, the NLRB implemented an expanded definition of joint employer, which now includes indirect and even potential, unexercised control over employees. This expansion is greatly concerning to the small business community as it will make it more difficult for small businesses to enter into service agreements with other companies. Further, this new standard could lead to fewer jobs as entrepreneurs reduce their investment in local businesses.

Small businesses are the backbone of Main Street and it is critically important that lawmakers and regulators understand the severe consequences of the NLRB's actions. *The Protecting Local Business Opportunity Act* would restore a reasonable definition for determining who is a joint employer and NFIB looks forward to working with you to enact this commonsense legislation in the 114<sup>th</sup> Congress.

Sincerely,

A handwritten signature in black ink, appearing to read "Amanda Austin". The signature is fluid and cursive, written over a light blue horizontal line.

Amanda Austin  
Vice President, Public Policy

National Federation of Independent Business

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