

# Rescinding Biden's Anti-Freedom, Anti-Growth Joint Employer Rule

Rep. John James

## BACKGROUND

- Traditionally, two or more businesses were considered “joint employers” under the *National Labor Relations Act* if they shared “actual,” “direct,” and “immediate” control over the essential terms and conditions of employment, including hiring, firing, discipline, supervision, and direction of employees.
- This predictable and clear standard ensured employers would not be saddled with collective bargaining obligations or with liability of a company they do not control.
- The Obama National Labor Relations Board (NLRB) upended decades of precedent and broadly expanded joint employment in the 2015 *Browning-Ferris* case.
- While the Trump Board restored the common sense, traditional joint employer standard, the Biden NLRB’s rule largely revives the Obama-era standard.

## THE PROBLEM

- Working families and small businesses are up against an onslaught of new rules and partisan decisions from Biden’s NLRB.
- One of the most concerning examples of this overreach is the joint employer rule that will sow confusion and destabilize the economy in a time where persistently high prices are crushing hardworking Americans.
- Under the Biden NLRB’s rule, an employer now includes those who have only “indirect” or even “potential” control over employees’ essential terms and conditions of employment.
- This extreme rule threatens to upend countless small businesses and destroy jobs across the country. It will leave small business owners with a great deal of uncertainty and less freedom in how to operate their businesses.
- It will harm nearly every contractual relationship by discouraging larger companies from contracting or franchising with small and local businesses.
- We know this rule will cause devastating impacts because, unfortunately, Democrats have implemented this standard before.
  - The Obama NLRB’s *Browning-Ferris* decision raised franchise operational costs by \$33 billion.
  - The decision caused 376,000 lost job opportunities in the franchise sector alone.
  - It increased NLRB unfair labor practice charges by 93 percent, imposing significant litigation costs on businesses both large and small.



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## SIMPLY PUT:

- Jobs will be lost, consumer costs will rise, and fewer small businesses will be created;
- Small business owners, such as franchisees, will have less freedom to operate their businesses; and
- Fewer individuals will have the opportunity to own their own business.

## THE SOLUTION

- H.J. Res. 98, authored by Rep. John James (R-MI), rescinds Biden's anti-freedom, anti-growth joint employer rule and prevents future anti-business administrations from implementing another similar job killing regulation.
- Specifically, H.J. Res. 98 is a *Congressional Review Act* resolution that will nullify the NLRB's final joint employer rule, which recklessly holds a company liable for employees it does not employ or directly control.
- This will help ensure that individuals working to achieve the American Dream of owning and running their own business aren't impeded.

**BOTTOM LINE:** House Republicans will continue to oppose this kind of executive overreach and advance policies that empower America's entrepreneurs and workers to succeed.

