

CHAMBER OF COMMERCE
OF THE
UNITED STATES OF AMERICA

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October 3, 2017

The Honorable Virginia Foxx
Chair
Committee on Education and
the Workforce
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Bobby Scott
Ranking Member
Committee on Education and
the Workforce
U.S. House of Representatives
Washington, D.C. 20515

Dear Chairwoman Foxx and Ranking Member Scott:

The U.S. Chamber of Commerce strongly supports H.R. 3441, the “Save Local Business Act,” which would clarify and restore balance to the National Labor Relations Act’s (NLRA) and Fair Labor Standards Act’s (FLSA) criteria for determining when employers will be considered “joint employers.” The Chamber urges the Committee to expeditiously approve this bill with no amendments.

The joint employer issue arose when the National Labor Relations Board issued its 2015 decision in *Browning-Ferris*, a case in which it redefined “joint employer” under the NLRA. For the 30 years prior to that decision, two separate business entities had been considered “joint employers” only if both entities exercised direct and immediate control over the terms and conditions of employment of the same workers—meaning that both actually shared the ability to take actions like hire, fire, discipline, supervise, and direct the workers in question. The *Browning Ferris* decision upended this well-established standard in favor of one in which mere indirect or potential control could result in a finding of joint employment. Thus, almost any economic or contractual relationship could result in joint employer status.

The Save Local Business Act would restore the previous definition of a joint employer. The proposed legislation would also set the same definition of joint employment for the FLSA, which is administered by the Department of Labor’s Wage and Hour Division (WHD). This provision is an important component of the bill since the Obama administration issued an interpretation that attempted to broaden how the WHD would interpret alleged joint employment situations. Clarifying and harmonizing in statute the criteria to be used in evaluating these factual situations would provide needed certainty and preclude the WHD from adopting such a broad interpretation again.

Thank you for your consideration. The Chamber urges the Committee to approve this legislation.

Sincerely,



Neil L. Bradley

cc: Members of the Committee on Education and the Workforce