

## Union Calendar No. 278

115TH CONGRESS  
1ST SESSION

# H. R. 3441

[Report No. 115–379]

To clarify the treatment of two or more employers as joint employers under the National Labor Relations Act and the Fair Labor Standards Act of 1938.

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### IN THE HOUSE OF REPRESENTATIVES

JULY 27, 2017

Mr. BYRNE (for himself, Ms. FOXX, Mr. WALBERG, Mr. WILSON of South Carolina, Mr. HUNTER, Mr. ROE of Tennessee, Mr. THOMPSON of Pennsylvania, Mr. GUTHRIE, Mr. ROKITA, Mr. BARLETTA, Mr. MESSER, Mr. GROTHMAN, Ms. STEFANIK, Mr. ALLEN, Mr. LEWIS of Minnesota, Mr. FRANCIS ROONEY of Florida, Mr. MITCHELL, Mr. GARRETT, Mr. SMUCKER, Mr. FERGUSON, Mrs. HANDEL, Mr. CHABOT, Mr. CUELLAR, Mr. KELLY of Pennsylvania, Mr. BARR, Mr. PERRY, Mr. ROUZER, Mrs. MIMI WALTERS of California, Mr. COLLINS of Georgia, and Mr. CORREA) introduced the following bill; which was referred to the Committee on Education and the Workforce

NOVEMBER 1, 2017

Additional sponsors: Mr. ESTES of Kansas, Mr. CRAMER, Mr. RODNEY DAVIS of Illinois, Mr. BRAT, Mr. YODER, Mr. MARSHALL, Mrs. COMSTOCK, Mr. MACARTHUR, Mr. DENT, Mr. CARTER of Georgia, Mr. ROGERS of Alabama, Mrs. WAGNER, Mr. MOOLENAAR, Mrs. WALORSKI, Mr. HUDSON, Mr. RATCLIFFE, Mr. LUETKEMEYER, Mr. DUNN, Mr. VALADAO, Mr. UPTON, Mrs. ROBY, Mr. SENSENBRENNER, Mr. JODY B. HICE of Georgia, Mr. HOLLINGSWORTH, Mr. PALMER, Mr. SMITH of Missouri, Mr. PETERSON, Mr. HENSARLING, Mr. LOUDERMILK, Mr. WESTERMAN, Mr. SMITH of Nebraska, Mr. GALLAGHER, Mr. FLORES, Mr. WOMACK, Mr. WENSTRUP, Mr. SMITH of Texas, Mr. LONG, Mr. PAULSEN, Mr. PEARCE, Mr. ADERHOLT, Ms. MCSALLY, Mr. HARRIS, Mr. POLIQUIN, Mr. TROTT, Mr. YOHO, Mr. SAM JOHNSON of Texas, Mr. FLEISCHMANN, Ms. TENNEY, Mr. WALKER, Mr. DUNCAN of South Carolina, Mr. CARTER of Texas, Mr. GOHMERT, Mr. COFFMAN, Ms. JENKINS of Kansas, Mrs. BROOKS of Indiana, Mr. FRELINGHUYSEN, Mr. GAETZ, Mr. STIV-

ERS, Mr. BISHOP of Michigan, Mr. BIGGS, Mr. CURBELO of Florida, Mr. SESSIONS, Mr. HUIZENGA, Mr. YOUNG of Iowa, Mr. BUDD, Mrs. NOEM, Mr. BANKS of Indiana, Mr. ZELDIN, Mr. WOODALL, Mr. COMER, Mrs. LOVE, Mr. HOLDING, Mrs. McMORRIS RODGERS, Mr. LATTA, Ms. HERRERA BEUTLER, Mr. GIBBS, Mr. TIBERI, Mr. COLE, Mr. PITTENGER, Mr. BURGESS, Mrs. BLACKBURN, Mr. HULTGREN, Mr. DESJARLAIS, Mr. DAVIDSON, Mr. WEBER of Texas, Mr. CRAWFORD, Mr. MEADOWS, Mr. BABIN, Mr. AUSTIN SCOTT of Georgia, Mr. BLUM, Mr. BRADY of Texas, Mr. MARCHANT, Mr. JOHNSON of Ohio, and Mr. HILL

NOVEMBER 1, 2017

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italic*]

[For text of introduced bill, see copy of bill as introduced on July 27, 2017]

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## A BILL

To clarify the treatment of two or more employers as joint employers under the National Labor Relations Act and the Fair Labor Standards Act of 1938.

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 “Save Local Business*  
5       *Act”.*

6       **SEC. 2. CLARIFICATION OF JOINT EMPLOYMENT.**

7       *(a) NATIONAL LABOR RELATIONS ACT.—Section 2(2)*  
8       *of the National Labor Relations Act (29 U.S.C. 152(2)) is*  
9       *amended—*

10               *(1) by striking “The term ‘employer’” and in-*  
11               *serting “(A) The term ‘employer’”; and*

12               *(2) by adding at the end the following:*

13               *“(B) A person may be considered a joint employer in*  
14       *relation to an employee only if such person directly, actu-*  
15       *ally, and immediately, and not in a limited and routine*  
16       *manner, exercises significant control over essential terms*  
17       *and conditions of employment, such as hiring employees,*  
18       *discharging employees, determining individual employee*  
19       *rates of pay and benefits, day-to-day supervision of employ-*  
20       *ees, assigning individual work schedules, positions, and*  
21       *tasks, or administering employee discipline.”.*

22       *(b) FAIR LABOR STANDARDS ACT OF 1938.—Section*  
23       *3(d) of the Fair Labor Standards Act of 1938 (29 U.S.C.*  
24       *203(d)) is amended—*

1           (1) *by striking “‘Employer’ includes” and in-*  
2       *serting “(1) ‘Employer’ includes”; and*  
3           (2) *by adding at the end the following:*  
4       *“(2) A person may be considered a joint employer in*  
5       *relation to an employee for purposes of this Act only if such*  
6       *person meets the criteria set forth in section 2(2)(B) of the*  
7       *National Labor Relations Act (29 U.S.C. 152(2)(B)).”.*



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