



MEMORANDUM IN OPPOSITION

S.3100-A (Ryan) / A.1278-B (Joyner)

AN ACT to amend the labor law, in relation to prohibiting non-compete agreements and certain restrictive covenants

The Capital Region Chamber, representing 2,600 businesses and organizations from throughout the Capital Region that employ more than 150,000 area residents, opposes S.3100-A/A.1278-B, which would amend the Labor Law to restrict the use of non-compete agreements and certain restrictive covenants to a wide range of employees.

On behalf of our diverse membership, the Chamber opposes this legislation because non-compete agreements are important tools for employers to protect their legitimate business interests. While we appreciate the sponsors' desire to curb the use of employers' use of abusive non-competition agreements, including among low-wage workers, which may be justified, the current proposal has overbroad and far-reaching implications that will prevent employers' use of restrictive covenants for legitimate business purposes.

The proposal will be harmful to both employees and employers in New York. Many employers rely upon the use of restrictive covenants to safeguard their highly confidential and proprietary information and the goodwill generated from customer relationships, which in many cases, is the result of significant investment. Non-competition agreements allow employers to protect the significant investment they make in developing innovative products and strategies in situations where non-disclosure agreements are not enough. Employees who are bound by these obligations have the opportunity to perform meaningful, impactful work and are rewarded with significant compensation and benefits.

We respectfully suggest that this bill should not pass in its current form, primarily because: 1) New York law already ensures that restrictive covenants are narrowly tailored to protect legitimate business interests; 2) the justification that the federal government has "announced an interest in banning" non-competes is misplaced; and 3) it would be detrimental to New York businesses which would be at a competitive disadvantage compared to businesses in other states.

For the above stated reasons, we respectfully request that the measure not advance in the Assembly.

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