

# Unnecessary Non-compete Clauses for Low-Wage Workers Hurt the Economy

*Position Statement on Senate Bill 468*

*Given before the Senate Finance Committee*

Non-compete clauses were introduced years ago to prevent employees from taking trade secrets with them when they leave a company. The potential benefits to companies were deemed worth the costs to employees, and contracts for executives often include severance payments in exchange for their abiding by non-compete contracts. However, non-compete clauses have proliferated to the point that 18% of all American workers, nearly 30 million people are covered.<sup>i</sup>

Now, many workers subject to legal restrictions on their employment make hourly wages and have no access to trade secrets. Most workers do not have the protections or negotiating leverage of executives and the true impact of these clauses is often glossed over in the hiring process. Prohibiting an employee who makes less than \$15 an hour from taking a different job in their field is an abusive use of non-compete clauses that gives companies unfair monopolies on labor. This type of market interference is bad for workers and bad for innovation. For these reasons, the Maryland Center on Economic Policy supports Senate Bill 468.

There are many economic costs to non-compete clauses. Workers have less bargaining power and lower wages. There is a decrease in the natural economic “churn” that would typically increase productivity. Workers are less able to build on their experience to move into positions with more seniority or better pay and instead may be forced to change careers.<sup>ii</sup> The justifications for non-compete clauses do not hold true when they are applied to low-wage workers. Less than half of workers subject to non-compete restrictions possess trade secrets, and workers earning less than \$40,000 possess trade secrets at less than half the rate of their higher-earning counterparts.<sup>iii</sup> Additionally, non-compete clauses prevent employees from finding work in their field even if they are terminated without cause, which provides no economic or social benefit.

Evidence suggests employers use non-compete clauses in non-transparent ways that constitute abuse. Often employees do not realize they are signing non-compete agreements or do not understand the implications. At least 37% of workers with non-compete clauses were asked to sign agreements only after accepting a job offer.<sup>iv</sup> Low-wage workers come to the table with fewer resources and less bargaining power to begin with; non-compete

clauses skew the playing field further in favor of employers.

Senate Bill 468 sets a bare minimum of protection for workers who “do not work in a business model, or are not exposed to information, that would typically lend itself to non-compete agreements.” It establishes that non-compete clauses in contracts for employees who earn \$15 per hour or less or \$31,200 or less annually are null and void. The bill does not address future wage increases. As the fiscal note states, this change would have a minimal impact on small businesses, because while some small businesses may face increased competition from former employees, others would be positively impacted by access to more skilled employees.<sup>v</sup> This increased competition encourages innovation and prevents stagnation of low-wage workers trapped in unfair contracts.

**For these reasons, the Maryland Center on Economic Policy respectfully requests that the House Ways and Means Committee give a favorable report to Senate Bill 468.**

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<sup>i</sup> “Non-compete Contracts: Economic Effects and Policy Implications.” March 2016. Office of Economic Policy, United States Treasury. <https://www.treasury.gov/resource-center/economic-policy/Documents/UST%20Non-competes%20Report.pdf>

<sup>ii</sup> Ibid.

<sup>iii</sup> Ibid.

<sup>iv</sup> Ibid.

<sup>v</sup> “Senate Bill 468 Fiscal and Policy Note.” Maryland General Assembly 2017 Session. [http://mgaleg.maryland.gov/2017RS/fnotes/bil\\_0008/sbo468.pdf](http://mgaleg.maryland.gov/2017RS/fnotes/bil_0008/sbo468.pdf)