

# KEY VOTE ALERT!

November 7, 2017

TO THE MEMBERS OF THE U.S. HOUSE OF REPRESENTATIVES:

The U.S. Chamber strongly supports H.R. 3441, the “Save Local Business Act.” which would clarify and restore 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 you to support H.R. 3441, and may consider including votes on, or in relation to, this bill in our annual *How They Voted Scorecard*.**

The National Labor Relations Board redefined who is a "joint employer" under the NLRA in its 2015 *Browning-Ferris* Decision. For the 30 years prior to that decision, two separate business entities were 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 do things such as hire, fire, discipline, supervise, and direct the workers in question. *Browning Ferris* upended that 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 restores the previous definition of a joint employer so that another company can be a joint employer “in relation to an employee only” if that employer “directly, actually, and immediately...exercises significant control over the essential terms and conditions of employment...”

The proposed legislation sets the same definition of joint employment for the FLSA, which is administered by the Department of Labor's Wage & Hour Division (WHD). This is important because many different courts have issued varying interpretations, causing tremendous confusion and uncertainty among employers with operations in different states. Statutory language clarifying the criteria will



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provide needed certainty. It would also preclude the WHD from issuing an interpretation intended to broaden the definition of joint employer during future administrations.

The Chamber urges you to support H.R. 3441, the Save Local Business Act.

Sincerely,

A handwritten signature in black ink, appearing to read "Jack Howard". The signature is written in a cursive, flowing style.

Jack Howard  
Senior Vice President  
Congressional and Public Affairs