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STATE OF CONNECTICUT

Senate Bill 906: *An Act Concerning Non-Compete Agreements*

Chairwoman Porter, Ranking Member Arora, Chairwoman Kushner, Ranking Member Sampson, and distinguished members of the Labor and Public Employees Committee, thank you for the opportunity to submit testimony in support of SB 906, *An Act Concerning Non-Compete Agreements*.

SB 906 is a smart, streamlined bill that will protect workers and strengthen our economy. It is written clearly to give guidance to both employers and workers, and includes straightforward, commonsense mechanisms to incentivize compliance.

SB 906 Will Help Workers and Our Economy

Connecticut's economy is still recovering from the effects of the COVID pandemic, and too many of our workers are still unemployed or underemployed.¹ Legislation such as SB 906 can help us respond by maximizing worker flexibility, mobility, competition, and entrepreneurship, so that we can get more people back into the labor force.

Overuse of non-compete provisions unnecessarily restricts worker liberty, limiting their ability to choose the right job and even to start their own businesses.² That hurts workers and their families, and creates drag on the economy's ability to adapt and recover. Simply stated, non-compete provisions are bad for workers, for business, and for our state.

Let's be clear about what that means. A janitor working in Hartford who finds a better-paying janitorial position closer to home in Wethersfield should be able to go take that job, rather than being restricted by an unnecessary contract provision that pointlessly binds her into lower wages and a longer commute. Or imagine a landscaping laborer in Waterbury. He's working the first job he could find after he was granted work authorization, but he's always wanted to open his own roofing business using skills he developed before he immigrated. He should be able to do that – that's the entrepreneurialism that this country was founded on. He should not be held back by boilerplate language in a form contract.

This is not to say that noncompete provisions cannot play a valid role in our economy. SB 906 recognizes and respects that fact. For instance, the bill allows business to use targeted non-competes to bind high-skilled, high-compensation employees in ways that protect trade secrets and preserve customer relationships. But many, if not most, non-competes do not work that way today.

¹ See *CT's Unemployment Rate Estimated at 8.2 Percent*, NBC CONNECTICUT (Dec. 17, 2020, 12:59 PM), <https://tinyurl.com/2gzpplp2>.

² Opposition to unnecessary use of non-competes is not a partisan position: For instance, the Koch-funded Cato Institute strongly opposes inappropriate non-competes as an infringement on economic liberty. See Alan Hyde, *Should Noncompetes Be Enforced?*, REGULATION (2010), <https://tinyurl.com/ysm2skzf>.



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They are harmful to workers and harmful to the free market, and they can hurt our economy. SB 906 fixes that.

SB 906 Is Specific and Enforceable

SB 906 is not just good in theory. It is also carefully written to educate both workers and employers about their rights and responsibilities, and it is calibrated to reduce enforcement costs by deterring bad behavior. I want to call your attention to three aspects of the bill:

- SB 906 is specific about what is, and what is not, permitted. It clearly defines which workers can be bound by non-compete provisions and carves out the instances where non-competes are appropriate.
- SB 906 provides that the Attorney General can bring a suit on behalf of workers who have been harmed by non-competes. This provision, which tracks Washington state's 2020 law limiting non-competes, ensures that the AG can protect our free market economy, where there are large-scale violations and workers are too poor to afford counsel on their own.³
- SB 906 creates meaningful penalties that disincentivize indiscriminate use of non-competes in employment contracts. Research shows that inclusion of non-competes, even when unenforceable, restricts worker mobility.⁴ SB 906 is carefully crafted to encourage employers to ensure that contract language follows the law.

For the foregoing reasons, I ask you to support SB 906. It is carefully crafted legislation that protects workers and promotes a strong economy by removing barriers to a free market for labor. Thank you once again for the opportunity to submit testimony on this important bill, and please do not hesitate to contact me or my office with any questions or concerns.

³ See Wa. Rev. Code. § 49.62.080 (2020).

⁴ See, e.g., *Noncompete Agreements and American Workers: Hearing Before the S. Comm. on Small Business and Entrepreneurship*, 116th Cong. (Nov. 14, 2019) (statement of Professor Evan Starr), <https://tinyurl.com/35sduo7q> (noting that “even unenforceable noncompetes appear to limit employee mobility.”).