

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 646 Session of  
2023

INTRODUCED BY BULLOCK, DELLOSO, MADDEN, RABB, SANCHEZ,  
SCHLOSSBERG, CIRESI, HILL-EVANS, KRAJEWSKI, FIEDLER, FLEMING,  
KINSEY, FREEMAN, N. NELSON, SHUSTERMAN AND KHAN,  
MARCH 21, 2023

REFERRED TO COMMITTEE ON LABOR AND INDUSTRY, MARCH 21, 2023

AN ACT

1 Prohibiting certain covenants not to compete; conferring powers  
2 and duties on the Department of Labor and Industry; and  
3 imposing penalties.

4 The General Assembly of the Commonwealth of Pennsylvania  
5 hereby enacts as follows:

6 Section 1. Short title.

7 This act shall be known and may be cited as the Freedom to  
8 Work Act.

9 Section 2. Definitions.

10 The following words and phrases when used in this act shall  
11 have the meanings given to them in this section unless the  
12 context clearly indicates otherwise:

13 "Covenant not to compete." An agreement between an employer  
14 and a low-wage employee that restricts a low-wage employee from  
15 performing work for another employer:

16 (1) for a specified period of time;

17 (2) in a specified geographical area; or

(3) that is similar to the low-wage employee's work for the employer that is party to the agreement.

"Department." The Department of Labor and Industry of the Commonwealth.

"Employer." As defined in section 3(g) of the act of January 17, 1968 (P.L.11, No.5), known as The Minimum Wage Act of 1968. The term does not include governmental or quasi-governmental bodies.

"Low-wage employee." An employee who earns:

(1) an hourly rate equal to the minimum wage required by the applicable Federal, State or local minimum wage law; or

(2) a wage 30% or more below the Pennsylvania median wage for all workers as calculated by the United States Department of Labor or \$20 or less per hour, whichever is greater.

Section 3. Prohibiting covenants not to compete for low-wage employees.

(a) General rule.--No employer may enter into a covenant not to compete with a low-wage employee of the employer.

(b) Void agreements.--A covenant not to compete entered into between an employer and a low-wage employee is void.

Section 4. Enforcement.

The department shall enforce this act and may conduct investigations as it deems necessary for enforcement.

Section 5. Penalties.

An employer found to be in violation of any provision of this act shall be subject to the following penalties:

(1) A fine of not more than \$5,000 for the first violation.

(2) A fine of not more than \$10,000 for each subsequent

1       violation.

2   Section 6.   Applicability.

3       This act shall apply to covenants not to compete entered into  
4   on or after the effective date of this section.

5   Section 7.   Effective date.

6       This act shall take effect in 60 days.