STATE OF NEW YORK

3937--A

2019-2020 Regular Sessions

IN SENATE

February 21, 2019

Introduced by Sen. HOYLMAN -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the general obligations law, in relation to prohibiting agreements between employers that directly restrict the current or future employment of any employee

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. This act shall be known and may be cited as the "End Employer Collusion Act".

§ 2. The general obligations law is amended by adding a new section 5-337 to read as follows:

§ 5-337. Agreements between employers restricting the current or future employment of an employee void. (a) For the purposes of this section, the following term "restrictive employment agreement" shall mean any agreement that:

(i) is between two or more employers, including through a franchise agreement or a contractor-subcontractor agreement; and

(ii) prohibits or restricts one employer from soliciting or hiring another employer's employees or former employees.

(b) Notwithstanding any other law to the contrary, no employer shall enter into a restrictive employment agreement with another employer, enforce a restrictive employment agreement or threaten to enforce a restrictive employment agreement and any restrictive employment agreement is hereby declared to be contrary to public policy and wholly void.

(c) Every person who was denied employment due to a restrictive employment agreement or was otherwise damaged due to a violation of subdivision (b) of this section may maintain an action for damages equal to the sum of (i) any actual damages sustained by the individual as a result of such violation, (ii) such amount of punitive damages as the

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

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court may allow, and (iii) in the case of any successful action to enforce any liability under this section, the costs of the action together with reasonable attorney's fees as determined by the court.

(d) Whenever the attorney general finds that there has been a violation of this section, he or she may proceed as provided in subdivision twelve of section sixty-three of the executive law.

§ 3. This act shall take effect immediately.