STATE OF NEW YORK

3937--C

Cal. No. 297

2019-2020 Regular Sessions

IN SENATE

February 21, 2019

Introduced by Sens. HOYLMAN, MAYER -- 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 -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading -- recommitted to the Committee on Judiciary in accordance with Senate Rule 6, sec. 8 -- reported favorably from said committee, ordered to first report, amended on first report, ordered to a second report and ordered reprinted, retaining its place in the order of second report

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 5-338 to read as follows:

§ 5-338. Agreements between certain 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 included in a franchise agreement; and

(ii) prohibits or restricts one or more franchisees from soliciting or hiring the employees or former employees of the franchisor or another franchisee.

(b) Notwithstanding any other law to the contrary, no franchisor or person acting on its behalf may enter into or renew a restrictive employment agreement, enforce a restrictive employment agreement, or

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

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threaten to enforce a restrictive employment agreement and any restrictive employment agreement is hereby 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 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 believes 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.