218th New JErsey Legislature

Assembly labor Committee

HoN. joseph egan--Chair

Testimony

Sal Risalvato

Executive Director

New Jersey Gasoline-Convenience-Automotive Association

A-1242

OPPOSE

May 10, 2018

Committee room 15

Trenton, NJ 08625

**Testimony of Sal Risalvato**

**A-1242: Oppose**

Chair Egan, members of the Committee, on behalf of the New Jersey Gasoline, Convenience, Automotive Association (NJGCA) I ask that you oppose this bill as it is currently written. NJGCA represents several hundred independent auto repair businesses across this state, and many will be hurt by this bill.

While the advocates of this bill do seem to make a fair case that the use of non-compete agreements has expanded too far, I believe that this bill as currently constructed will move the marketplace too far in the opposite direction and remove almost completely a fair type of protection that exists for employers.

The specific situation that I am concerned will be outlawed by this bill is one in which the owner of an auto repair business asks his mechanic to sign an agreement saying that if the mechanic ever leaves this business, either to open their own or go to work for a competitor, that mechanic is prevented from simply calling the owner of every car that ever came into their previous employer’s garage and solicit them for business.

I do not believe there are any cases in which an independent repair shop owner asks a technician to sign an agreement wherein they promise that if they ever leave the business, they agree to never fix cars again. If there are or were to be, I believe it would be fair to ban such an unfair and impracticable agreement. Indeed, the proliferation of such a practice would likely hurt the small business community as the labor market becomes constricted. One of the biggest challenges for repair facilities currently is finding qualified technicians to make repairs.

Small businesses have enough to worry about without needing to fear that anyone they hire will turn around on any given day and work to completely gut their business. A legal agreement to prevent that, offered fairly, openly, and at the start of employment should not be banned by the State.

The bill does make mention of “alternative agreements” like I have just described, but the definition used for “restrictive covenant” is “an agreement between an employer and an employee […] under which the employee or expected employee agrees not to engage in certain specified activities competitive with the employee’s employer after the employment relationship has ended”. This appears broad enough to cover even the basic type of agreement that I have described above.

I offer one other small suggestion to improve this bill. It requires every employer in the state post a copy of the act or a DOL approved summary. This seems unnecessary for all those employers which do not or will not make use of these types of agreements in any way for any of their employees. Perhaps it would be better to amend the requirement so that the protections only need to be posted by employers who use the types of agreements covered in this bill in some way, rather than requiring yet another aspect of employment law be posted on an already oversaturated bulletin board.

Without changes, I do not believe that this bill should be moved past this Committee. I ask that you vote NO on this bill today.

Thank you.