



Backgrounder: American Franchise Act

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[H.R. 5267](#), Sponsored by Rep. Kevin Hern (R-OK)

The American Franchise Act (AFA), introduced by Rep. Kevin Hern (R-OK) with bipartisan support, aims to preserve the franchise model by clarifying when a franchisor may be considered a “joint employer” under federal labor laws.

The bill codifies that a franchisor is not a joint employer of a franchisee's employees unless it directly, actually, and immediately exercises significant control over essential terms and conditions of employment. This would align the National Labor Relations Act (NLRA) and Fair Labor Standards Act (FLSA) with longstanding precedent and counter recent regulatory efforts that attempted to broaden joint employer liability.

The AFA addresses ongoing uncertainty created by shifting joint employer standards under the Obama, Trump, and Biden administrations. It follows the NLRB's 2023 final rule, which sought to expand joint employer liability to include indirect or reserved control. That rule was later blocked in court for exceeding the common-law definition of employment. The AFA would prevent future rulemaking by the Department of Labor or the NLRB that seeks to expand the joint employer definition beyond this narrower standard.

The bill is supported by the International Franchise Association (IFA) and small business advocates, who argue that regulatory ambiguity threatens the viability of the franchise model and undermines job creation.

A related measure, the [Save Local Business Act](#), also addresses the joint employer issue but alternatively extends protections to all employers, in addition to franchisors and franchisees.

Bill Status: The bill has been referred to the House Committee on Education and the Workforce.

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