

THE AMERICAN FRANCHISE ACT



COALITION TO SAVE LOCAL BUSINESSES

The 832,000 franchise small businesses nationwide deserve to know the rules by which they should operate, and the bipartisan, bicameral **American Franchise Act (AFA, H.R. 5267/S. 3525)** is the solution to clarify those rules by codifying current law on the federal joint employment standard for franchising.

Since 2015, the joint employment standard has unnecessarily changed four times. The joint employment standard is important to the franchisor-franchisee relationship because it determines when two entities (like a franchisor and franchisee) are responsible for the same employees. An overly broad joint employer standard means any franchisor-

franchisee relationship can be named joint employers, and it is misapplied to the franchisor-franchisee context because franchises are independently operated and no one argues that franchised employees belong to a franchisor.

The **uncertainty** of broad joint employment standards is not hypothetical for franchising; in 2015-2017 when an expansive joint employment standard was law, it irreparably scarred the franchisor-franchisee relationship, and only Congress can again unleash the full value proposition for franchising, where an aspiring business owner can “go into business for themselves, but not by themselves.”

WHAT CAUSED THESE PROBLEMS?

- Prior to 2015:** National Labor Relations Act’s joint employer standard is based on “direct and immediate control of essential terms and conditions of employment” (**Standard #1**)
 - This meant franchise brands were free to help franchisees and franchised workers with education, training, compliance assistance, employee recognition programs and other resources without legal risk.
- 2015-2017:** National Labor Relations Board Browning-Ferris decision expanded joint liability on franchise businesses (**Standard #2**)
 - This period led to a **93% increase in litigation against franchises, \$33.3 billion in lost economic output, and 376,000 fewer franchise jobs**
- 2017:** NLRB Hy-Brand decision reverted to pre-2015 standard, but then decision was nullified (**Standards #3 & #4**)
- 2020:** NLRB finalized joint employer rule based on “direct and immediate control” (**Standard #5**)
- 2021:** SEIU challenged 2020 NLRB joint employer rule; case ultimately stayed
- 2023:** NLRB proposed new, expansive joint employer rule
- 2024:** Expansive 2023 joint employer rule struck down in federal court
- 2025:** SEIU revived its challenge of the 2020 rule, which could lead to another change to the joint employer standard

WHO IS AFFECTED BY THIS REGULATORY CONFUSION?

- **First-time business owners** – 64% of local franchise owners are first-time business owners, and franchise businesses are more likely to be owned by people of color, women and veterans than non-franchise businesses.
- **Local communities** – 83% of franchisees give to local charities that fund schools, sponsor youth sports, and support local nonprofits and charities, and 85% of franchise owners live in the community where they operate.
- **Workers** – Franchise workers experience higher wages, stronger benefits, and more upward mobility than non-franchise workers.*

THE SOLUTION? THE AMERICAN FRANCHISE ACT

The bipartisan, bicameral American Franchise Act would protect the next generation of franchise entrepreneurs. The bill was introduced in 2025 by [Reps. Kevin Hern \(R-OK\) and Don Davis \(D-NC\)](#) and [Sens. Roger Marshall \(R-KS\) and Angus King \(I-ME\)](#), and it would modestly amend the Fair Labor Standards Act and the National Labor Relations Act to clarify that: “A franchisor may be considered a joint employer of the employees of a franchisee only if the franchisor possesses and exercises substantial direct and immediate control over one or more essential terms or conditions of the employees of the franchisee.” This is consistent with historical precedent and current NLRB policy.

- The AFA is supported by [100+ business, advocacy, and diversity organizations](#), including franchisee associations like the Coalition of Franchisee Associations, American Association of Franchisees & Dealers and Asian American Hotel Owners Association.
- The AFA is [endorsed by the bipartisan U.S. House Problem Solvers Caucus](#) that advances common-sense solutions.