

117TH CONGRESS  
1ST SESSION

# H. R. 5851

To void existing non-compete agreements for any employee who is fired for not complying with an employer’s COVID–19 vaccine mandate, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 3, 2021

Ms. TENNEY (for herself, Mr. HICE of Georgia, Mr. MAST, Mr. MANN, Mr. GOHMERT, Mr. TIMMONS, Mrs. MILLER of Illinois, Mr. GUTHRIE, and Mr. GUEST) introduced the following bill; which was referred to the Committee on Education and Labor, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To void existing non-compete agreements for any employee who is fired for not complying with an employer’s COVID–19 vaccine mandate, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Employment Freedom  
5       for All Act”.

1 **SEC. 2. CERTAIN NON-COMPETE AGREEMENTS UNEN-**  
2 **FORCEABLE.**

3 Any non-compete agreement between an employer  
4 and an employee or former employee who has been fired  
5 for not receiving a COVID–19 vaccine shall be unenforce-  
6 able.

7 **SEC. 3. PROHIBITION ON CERTAIN NON-COMPETE AGREE-**  
8 **MENTS.**

9 (a) REGULATIONS REQUIRED.—Not later than 60  
10 days after the date of the enactment of this Act, the Com-  
11 mission shall issue regulations under section 553 of title  
12 5, United States Code, to prohibit an employer from en-  
13 forcing a non-compete agreement with an employee or  
14 former employee who has been fired for not receiving a  
15 COVID–19 vaccine.

16 (b) ENFORCEMENT.—

17 (1) UNFAIR OR DECEPTIVE ACTS OR PRAC-  
18 TICES.—A violation of this section or a regulation  
19 promulgated under this section shall be treated as a  
20 violation of a regulation under section 18(a)(1)(B)  
21 of the Federal Trade Commission Act (15 U.S.C.  
22 57a(a)(1)(B)) regarding unfair or deceptive acts or  
23 practices.

24 (2) POWERS OF THE COMMISSION.—The Com-  
25 mission shall enforce this section and the regulations  
26 promulgated under this section in the same manner,

1 by the same means, and with the same jurisdiction,  
2 powers, and duties as though all applicable terms  
3 and provisions of the Federal Trade Commission Act  
4 (15 U.S.C. 41 et seq.) were incorporated into and  
5 made a part of this section, and any person who vio-  
6 lates this section or a regulation promulgated under  
7 this section shall be subject to the penalties entitled  
8 to the privileges and immunities provided in the  
9 Federal Trade Commission Act.

10 (3) ENFORCEMENT BY STATE ATTORNEYS GEN-  
11 ERAL.—If the chief law enforcement officer of a  
12 State, or an official or agency designated by a State,  
13 has reason to believe that any person has violated or  
14 is violating this section or a regulation promulgated  
15 under this section, the attorney general, official, or  
16 agency of the State, in addition to any authority it  
17 may have to bring an action in State court under its  
18 consumer protection law, may bring a civil action in  
19 any appropriate United States district court or in  
20 any other court of competent jurisdiction, including  
21 a State court, to—

22 (A) enjoin further such violation by such  
23 person;

24 (B) enforce compliance with such sub-  
25 section;

1 (C) obtain civil penalties; and

2 (D) obtain damages, restitution, or other  
3 compensation on behalf of residents of the  
4 State.

5 (c) DEFINITIONS.—In this section:

6 (1) COMMISSION.—The term “Commission”  
7 means the Federal Trade Commission.

8 (2) EMPLOYER.—The term “employer” has the  
9 meaning given in section 3 of the Fair Labor Stand-  
10 ards Act of 1938 (29 U.S.C. 203).

11 (3) NON-COMPETE AGREEMENT.—The term  
12 “non-compete agreement” means an agreement, en-  
13 tered into between an employer and an employee,  
14 that restricts such employee from performing, after  
15 the employment relationship between the employer  
16 and the employee terminates, any of the following:

17 (A) Any work for another employer for a  
18 specified period of time.

19 (B) Any work in a specified geographical  
20 area.

21 (C) Any work for another employer that is  
22 similar to such employee’s work for the em-  
23 ployer that is a party to such agreement.

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