

117TH CONGRESS
2D SESSION

H. R. 9138

To amend the Small Business Economic Policy Act of 1980 to examine how the competitiveness of small businesses is affected by the enforcement of Federal antitrust laws, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 4, 2022

Ms. NEWMAN (for herself and Ms. TENNEY) introduced the following bill;
which was referred to the Committee on Small Business

A BILL

To amend the Small Business Economic Policy Act of 1980 to examine how the competitiveness of small businesses is affected by the enforcement of Federal antitrust laws, 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 “Main Street Competes
5 Act”.

1 **SEC. 2. CONGRESSIONAL DECLARATION OF SMALL BUSI-**
2 **NESS ECONOMIC POLICY.**

3 Section 302(a) of the Small Business Economic Pol-
4 icy Act of 1980 (15 U.S.C. 631a(a)) is amended—

5 (1) by striking “and provide” and inserting
6 “provide”; and

7 (2) by striking the period and inserting “; and
8 promote competitive markets, consumer choice, and
9 business ownership through enforcement of Federal
10 antitrust laws in the case of anticompetitive conduct
11 that harms small businesses and the growth of small
12 businesses.”.

13 **SEC. 3. STATE OF SMALL BUSINESSES.**

14 Section 303(a) of the Small Business Economic Pol-
15 icy Act of 1980 (15 U.S.C. 631b(a)) is amended—

16 (1) by striking “not later than January 20 of
17 each year”;

18 (2) by striking “The President” and inserting
19 “Not later than January 20, 2023, and not later
20 than January 20 of each year thereafter, the Presi-
21 dent”;

22 (3) by amending paragraph (1) to read as fol-
23 lows:

24 “(1) present current and historical data on—

25 “(A) production, employment, investment,
26 population, job creation and retention, annual

1 business failures, annual business startups, and
2 other economic variables for small business in
3 the economy as a whole and for small business
4 in each sector of the economy, with, to the ex-
5 tent practicable, specific statistics divided as to
6 urban, suburban, and rural areas; and

7 “(B) the proportion small businesses com-
8 prise of each sector of the economy;”;

9 (4) by striking paragraph (2);

10 (5) by redesignating paragraphs (3) and (4) as
11 paragraphs (2) and (3), respectively;

12 (6) in paragraph (3), as so redesignated, by
13 striking “and” at the end;

14 (7) by redesignating paragraph (5) as para-
15 graph (6); and

16 (8) by inserting after paragraph (3), as so re-
17 designated, the following new paragraphs:

18 “(4) examine—

19 “(A) how the enforcement of Federal anti-
20 trust laws and the regulations and guidelines
21 promulgated under such laws affects the com-
22 petitiveness of small businesses;

23 “(B) problems attributable to the enforce-
24 ment, or lack of enforcement, of Federal anti-
25 trust laws; and

1 “(C) the extent to which the Federal anti-
2 trust laws deter anticompetitive conduct that
3 harms small businesses including predatory
4 pricing, anticompetitive vertical and horizontal
5 mergers, price discrimination, and exclusionary
6 conduct;

7 “(5) recommend legislative and administrative
8 solutions to problems identified under paragraph
9 (4); and”.

10 **SEC. 4. REPORT TO SMALL BUSINESS ADMINISTRATION.**

11 Section 303 of the Small Business Economic Policy
12 Act of 1980 (15 U.S.C. 631b) is amended by adding at
13 the end the following new subsections:

14 “(f) Not later than 180 days after the end of fiscal
15 year 2023 and each fiscal year thereafter, the head of each
16 specified entity shall provide a report to the Office of Ad-
17 vocacy of the Small Business Administration on how en-
18 forcement by the specified entity of Federal antitrust laws
19 promoted competition during the fiscal year preceding the
20 report by deterring and remedying anticompetitive con-
21 duct that threatens small businesses, including—

22 “(1) an analysis of how enforcement by the
23 specified entity of Federal antitrust laws promoted
24 competition during the preceding fiscal year by de-

1 terrering and remedying anticompetitive conduct that
2 threatens small businesses;

3 “(2) the number of complaints of alleged anti-
4 trust violations filed by small businesses with the
5 specified entity during the preceding fiscal year
6 disaggregated by category of the alleged antitrust
7 violation, including type of offense and the specific
8 Federal antitrust laws allegedly violated;

9 “(3) the number of inquiries, investigations,
10 and enforcement actions undertaken by the specified
11 entity in response to complaints filed by small busi-
12 nesses with the specified entity during the preceding
13 fiscal year; and

14 “(4) the number of inquiries, investigations,
15 and enforcement actions undertaken by the specified
16 entity during the preceding fiscal year pursuant to
17 an alleged antitrust violation, opened for a reason
18 other than described in paragraph (3), to deter and
19 remedy anticompetitive conduct that threatens small
20 businesses.

21 “(g) Not later than 60 days after receiving a report
22 under subsection (f) from the head of each specified entity
23 with respect to a fiscal year, the Chief Counsel for Advo-
24 cacy of the Small Business Administration shall—

1 “(1) based on each such report with respect to
2 such fiscal year, analyze the extent to which each
3 specified entity promoted competition by deterring
4 and remedying anticompetitive conduct described in
5 subsection (f)(1) during such fiscal year; and

6 “(2) submit to the Administrator of the Small
7 Business Administration—

8 “(A) each such report with respect to such
9 fiscal year; and

10 “(B) a report on the findings of the anal-
11 ysis conducted under paragraph (1) based on
12 the reports submitted under subsection (f) for
13 such fiscal year.

14 “(h) Not later than 30 days after receiving each re-
15 port required under subsection (g) with respect to a fiscal
16 year, the Administrator of the Small Business Administra-
17 tion shall submit to the President and Congress, and make
18 available on the public website of the Small Business Ad-
19 ministration, such reports.”.

20 **SEC. 5. DEFINITIONS AND REPORTING REQUIREMENTS.**

21 The Small Business Economic Policy Act of 1980
22 (Public Law 96–302; 94 Stat. 848; 15 U.S.C. 631a et
23 seq.) is amended by adding at the end the following new
24 sections:

1 **“SEC. 304. DEFINITIONS.**

2 “In this title:

3 “(1) ANTITRUST VIOLATION.—The term ‘anti-
4 trust violation’ means any violation of Federal anti-
5 trust laws.

6 “(2) FEDERAL ANTITRUST LAWS.—The term
7 ‘Federal antitrust laws’ has the meaning given the
8 term ‘antitrust laws’ in subsection (a) of the first
9 section of the Clayton Act (15 U.S.C. 12(a)), except
10 that such term shall also include section 5 of the
11 Federal Trade Commission Act (15 U.S.C. 45) to
12 the extent that such section 5 applies to unfair
13 methods of competition.

14 “(3) SPECIFIED ENTITY.—The term ‘specified
15 entity’ means—

16 “(A) the Department of Justice; and

17 “(B) the Federal Trade Commission.

18 **“SEC. 305. REPORTING REQUIREMENTS.**

19 “Section 3003(a)(1) of the Federal Reports Elimini-
20 nation and Sunset Act of 1995 (31 U.S.C. 1113 note)
21 does not apply with respect to section 303 of this Act.”.

22 **SEC. 6. PRIMARY FUNCTIONS OF THE OFFICE OF ADVO-**
23 **CACY.**

24 Section 202 of the Act entitled “To amend the Small
25 Business Act and Small Business Investment Act of 1958
26 to provide additional assistance under such Acts, to create

1 a pollution control financing program for small businesses,
2 and for other purposes” (Public Law 94–305; 15 U.S.C.
3 634b) is amended—

4 (1) in paragraph (11), by striking “and” at the
5 end;

6 (2) in paragraph (12), by striking the period at
7 the end and inserting “; and”; and

8 (3) by adding at the end the following new
9 paragraph:

10 “(13) evaluate the efforts of the Antitrust Divi-
11 sion of the Department of Justice and the Federal
12 Trade Commission to protect small businesses from
13 conduct that impairs competition.”.

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