



Published on *Washington State* (<https://www.atg.wa.gov>)

[Home](#) > AG Ferguson announces fast-food chains will end restrictions on low-wage workers nationwide

AG Ferguson announces fast-food chains will end restrictions on low-wage workers nationwide

FOR IMMEDIATE RELEASE:

Jul 12 2018

To avoid a lawsuit, seven corporations will remove “no-poach provisions” from their franchise agreements

SEATTLE — Attorney General Bob Ferguson today announced that in order to avoid a lawsuit from his office, seven large, corporate fast-food chains will immediately end a nationwide practice that restricts worker mobility and decreases competition for labor by preventing workers from moving among the chains’ franchise locations. The companies will no longer enforce provisions included in franchise agreements that stop workers from moving to potentially better positions and wages, and will remove the language from current and future contracts.

Economists believe that practices that decrease competition, like the “no-poach” language that Ferguson urged these companies to remove, lead to wage stagnation.

A September 2017 article in the New York Times titled “Why Aren’t Paychecks Growing? A Burger-Joint Clause Offers a Clue,” focused on the downward pressure no-poach agreements among fast-food franchises place on wages.

Earlier this year, Ferguson’s Antitrust Division launched an investigation into these so-called “no-poach” clauses in fast-food chains. No-poach provisions appear in lengthy franchise agreements that owners of fast-food franchises sign with corporate headquarters. Employees are often unaware the provisions exist. In effect, the provisions prohibit employees from moving among restaurants of the same corporate chain – for example, prohibiting one Carl’s Jr. employee from accepting employment from another Carl’s Jr. franchise location for higher pay.

According to economists, no-poach provisions decrease competition, reduce opportunities for low-wage workers and stagnate wages, in violation of the antitrust provisions in the state Consumer Protection Act. The state Consumer Protection Act prohibits “unreasonable restraints of trade,” which applies as much to the labor market as it does to the burger market. Because employees cannot move to another location within their corporate brand, their current location may have less incentive to give them raises. This practice harms workers not just in Washington state, but nationally.

Ferguson negotiated legally binding agreements, known as assurances of discontinuance, whereby these corporations would agree to end these restrictions on workers nationwide in order to avoid a lawsuit from the Washington State Attorney General’s Office.

The seven fast-food chains agreed to stop this practice not only at their over 500 Washington locations, but nationally. Tens of thousands of low-wage employees will be affected across the United States at

more than 25,000 locations.

“Companies must compete for workers just like they compete for customers,” said Ferguson. “They cannot manipulate the market to keep wages low. My goal is to unrig a system that suppresses wages in the fast food industry.”

The following companies agreed to end the practice:

- Arby's (57 Washington locations, estimated 3,283 locations nationwide),
- Auntie Anne's (28 Washington locations, estimated 1,229 locations nationwide),
- Buffalo Wild Wings (16 Washington locations, estimated 1,214 locations nationwide),
- Carl's Jr. (33 Washington locations, estimated 1,168 locations nationwide),
- Cinnabon (25 Washington locations, estimated 836 locations nationwide),
- Jimmy John's (127 Washington locations, estimated 2,774 locations nationwide), and
- McDonald's (271 Washington locations, estimated 16,193 locations nationwide).

As a result of the assurances of discontinuance, filed in King County Superior Court, the franchisors are now legally obligated to stop including no-poach language in their new agreements and must remove any no-poach provisions in existing franchise agreements on a national scale.

Arby's, Auntie Anne's, Buffalo Wild Wings, Carl's Jr., Cinnabon and Jimmy John's must amend all Washington state locations' contracts to remove the no-poach language within 120 days. For the other 49 states, Puerto Rico and Washington D.C., the companies must update existing franchise agreements as the contracts come up for renewal. While this process takes place, the chains may not enforce the existing provisions. Additionally, the chains must notify all franchisees, or independent franchise owners, of the requirements under the assurance of discontinuance.

Unlike the other six franchises, McDonald's previously announced that it would no longer enforce no-poach clauses found in its franchise agreements, and announced it would no longer include these clauses in contracts with new franchises. Ferguson's assurance of discontinuance makes that commitment legally binding. Moreover, this legally binding agreement requires McDonald's to remove no-poach language in its contracts with Washington state locations within 60 days.

If any of the seven fast-food chains violate any of the terms, the company will be subject to civil penalties.

All seven companies cooperated in Ferguson's investigation. Ferguson is investigating other corporate chains that utilize no-poach agreements and expects that more fast-food corporations will agree to remove any current and future no-poach provisions from their contracts. If other companies do not remove their no-poach provisions, Ferguson is prepared to file lawsuits.

Senior Assistant Attorney General Jonathan Mark and Assistant Attorney General Eric Newman of the Attorney General's Antitrust Division are handling the case.

The Office of the Attorney General's Antitrust Division is responsible for enforcing the antitrust provisions of Washington's Unfair Business Practices-Consumer Protection Act. The division investigates and litigates complaints of anticompetitive conduct and reviews potentially anticompetitive mergers. The division also brings actions in federal court under the federal antitrust laws. It receives no general fund support, funding its own actions through recoveries made in other cases.

The Antitrust Division investigates complaints about potential anti-competitive activity. For information about filing a complaint, visit <https://fortress.wa.gov/atg/formhandler/ago/AntitrustComplaint.aspx>.

The Office of the Attorney General is the chief legal office for the state of Washington with attorneys and staff in 27 divisions across the state providing legal services to roughly 200 state agencies, boards and commissions. Visit www.atg.wa.gov to learn more.

Contacts:

Brionna Aho, Communications Director, (360) 753-2727; brionna.aho@atg.wa.gov