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## AG Ferguson's initiative ends no-poach clauses at eight more corporate chains with more than 2,300 locations nationwide

**FOR IMMEDIATE RELEASE:**

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*Ferguson's initiative has now eliminated no-poach agreements at 75 corporate chains*

**SEATTLE** — Attorney General Bob Ferguson today announced the latest progress in his initiative to end the use of no-poach clauses nationwide. In order to avoid a lawsuit, eight additional corporate chains eliminated their no-poach practices nationwide by entering into legally enforceable agreements to remove the clauses from franchise contracts. The eight chains have 62 locations in Washington and more than 2,300 locations nationwide. This brings the total number of corporate chains that have signed legally binding agreements with Ferguson to eliminate no-poach clauses from all their franchise agreements nationwide to 75, representing nearly 140,000 locations.

Curves, European Wax Center, Figaro's Pizza, The Habit Burger Grill, Home Instead, ITEX Corporation, The Melting Pot and Wetzel's Pretzels signed legally binding commitments to stop enforcing no-poach clauses, and to stop adding no-poach clauses to new franchise contracts. All eight must make these changes nationwide. In addition, they must amend existing franchise agreements in Washington state. The eight join 67 other corporations that have now signed legally enforceable agreements with the Washington State Attorney General's Office to end the practice.

No-poach clauses appear in franchise agreements between owners of franchises and corporate headquarters. The clauses prohibit employees from moving among stores in the same corporate chain, a practice that economists believe stagnates wages. For example, the clauses would prohibit an employee at one Wetzel's Pretzels location from accepting employment from another Wetzel's Pretzels franchise location for higher pay.

With today's announcement, Ferguson moves closer to his goal of eliminating no-poach clauses nationwide.



In October 2018, Ferguson filed his first lawsuit against restaurant chain Jersey Mike's for its use of no-poach clauses. Unlike dozens of other corporate chains, Jersey Mike's refused to enter into a legally binding agreement to end these practices nationwide, and Ferguson filed a lawsuit against the company. Ferguson resolved that lawsuit in August. In order to avoid trial, Jersey Mike's ultimately agreed to eliminate no poach clauses from all its corporate franchise agreements, and also paid the state of Washington \$150,000. Had Jersey Mike's agreed to Ferguson's original offer, they would not have had to make any payment to the state of Washington.

"My legal team is relentless," Ferguson said. "We're on our way to eliminating this practice that hurts millions of workers at corporate franchises. My office's initiative to end no-poach practices nationwide has benefited millions of workers at nearly 140,000 locations — and we're not slowing down."

### **Expansion of anti-no-poach initiative**

Ferguson continues to investigate and obtain legally enforceable agreements from companies outside of the fast-food industry. Today's agreements, filed in King County Superior Court, include companies within the fitness, home healthcare services and restaurant industries.

This group builds on Ferguson's announcement in October 2018 of the first corporations outside the fast-food industry anywhere in the country to enter into legally enforceable agreements with Ferguson or any other state attorney general to end no-poach practices. Ferguson will continue to pursue other corporate chains across a wide range of industries.

To avoid a lawsuit, the following corporate chains entered into legally binding commitments to eliminate no-poach clauses nationwide:

- Curves (9 Washington locations, estimated 367 locations nationwide)
- European Wax Center (8 Washington locations, estimated 892 locations nationwide)
- Figaro's Pizza (3 Washington locations, estimated 32 locations nationwide)
- The Habit Burger Grill (8 Washington locations, estimated 273 locations nationwide)
- Home Instead (16 Washington locations, estimated 310 locations nationwide)
- ITEX Corporation (3 Washington locations, estimated 94 locations nationwide)
- The Melting Pot (4 Washington locations, estimated 104 locations nationwide)
- Wetzel's Pretzels (11 Washington locations, estimated 288 locations nationwide)

These corporations will no longer include no-poach language in new franchise agreements. Additionally, the companies will no longer enforce no-poach provisions currently included in franchise agreements at more than 2,300 locations nationwide where tens of thousands of workers are employed. Finally, the companies must remove current no-poach clauses from their Washington contracts in the next 60 to 120 days, and their nationwide contracts as they come up for renewal.

### **Background on Ferguson's initiative to eliminate no-poach clauses**

As a result of Ferguson's initiative to eliminate no-poach clauses, 75 chains have signed legally binding commitments to end no-poach practices nationwide at an estimated 139,000 locations. The changes benefit millions of workers across the U.S.

The initiative began with a September 2017 article in the New York Times titled "Why Aren't Paychecks Growing? A Burger-Joint Clause Offers a Clue." The article focused on the downward pressure no-poach agreements among fast-food franchises place on wages. After reading the article, Solicitor General Noah Purcell referred the subject to Attorney General Ferguson. The article cited research by Princeton economists Alan Krueger and Orley Ashenfelter highlighting the harms to workers caused by the practice.

Professors Krueger and Ashenfelter examined franchise agreements for 156 of the largest franchise companies in the United States. The franchise agreements for companies with more than 500 locations operating in the U.S. were analyzed for any language “restricting the recruitment and hiring of employees from other units within the franchise company.”

The economists assert that “no-poach” clauses reduce opportunities for low-wage workers and stagnate wages, harming workers in Washington and across the nation.

In January 2018, Ferguson’s Antitrust Division launched an investigation into no-poach clauses. The Attorney General’s Office investigated the corporations on the economists’ list to determine which fast-food companies used no-poach clauses and were present and employed people in Washington. Out of the original restaurants the Antitrust Division contacted, three chains — Hissho Sushi, Long John Silver’s and Wendy’s — did not use no-poach provisions in their franchise contracts. In addition to the companies announced today, Ferguson negotiated an end to no-poach practices with 46 corporate chains in 2018, including McDonald’s, Anytime Fitness, Sport Clips and La Quinta. Ferguson’s initiative has continued this year, with four chains in January, seven chains in February, five chains in May and four in August. For more information, [click here](#).

In September 2018, Ferguson announced that he was expanding his investigation to industries beyond fast-food restaurants, starting with all the remaining companies on Krueger and Ashenfelter’s list. Ferguson also announced that he was beginning to investigate fast-food chains that economists Krueger and Ashenfelter did not include in their analysis because they have fewer than 500 stores nationwide. The first chains outside of the restaurant industry to end no-poach practices included gyms, automotive services and convenience stores.

Corporate chains that do not agree to end the practice face a lawsuit from Ferguson’s office. In October 2018, the Attorney General filed the first lawsuit by a state attorney general against a company for using no-poach clauses. That case resolved in August 2019.

The investigation now continues across several industries that utilize no-poach clauses in their franchise contracts, including:

- Automotive services
- Child care
- Cleaning services
- Convenience stores
- Custom window treatment services
- Electronics repair services
- Home healthcare services
- Hotels
- Insurance adjustor services
- Parcel services
- Tax preparation
- Travel services

Since the investigation began in early 2018, Ferguson’s Antitrust Division has successfully negotiated an elimination of no-poach clauses at 75 companies nationwide, including the eight announced today.

Senior Assistant Attorney General Jonathan Mark and Assistant Attorneys General Eric Newman, Rahul Rao and Justin Wade of the Attorney General’s Antitrust Division are leading the no-poach initiative.

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>.

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