



**BEFORE THE JUDICIARY COMMITTEE
THE OHIO SENATE
SENATOR NATHAN MANNING, CHAIR**

**SENATE BILL 11
TESTIMONY OF THERESA NELSON
THE OHIO MANUFACTURERS' ASSOCIATION**

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Chair Manning, Vice-Chair Reynolds, Ranking Member Hicks-Hudson, and members of the Senate Judiciary Committee, thank you for the opportunity to provide testimony on Senate Bill 11.

My name is Theresa Nelson. I am an attorney with the law firm of Bricker Graydon, representing The Ohio Manufacturers' Association (OMA). Created in 1910 to advocate for Ohio's manufacturers, the OMA today has approximately 1,300 members statewide. Its mission is to protect and grow Ohio manufacturing.

Manufacturing is the largest of the state's 20 major industry sectors. As of Q4 2024, manufacturing contributed more than \$131 billion annually to Ohio's economy, accounting for nearly one-fifth of Ohio's private industry GDP. The industry employs nearly 700,000 Ohioans, providing them with family and community sustaining jobs.

Senate Bill 11 proposes sweeping prohibitions on several common business agreements, including non-compete clauses, reimbursement agreements, and reasonable financial penalties for premature contract termination. The manufacturing sector relies on these agreements to protect trade secrets, ensure fair competition, and safeguard investments in workforce development.

Broad and Overly Expansive Definitions

The bill's definitions of "worker" and "employer" are alarmingly broad. The definition of "worker" captures not only traditional employees but also independent contractors, sole proprietors, and even business entities. The definition of "worker" provides no consideration for what services the individual is performing, what position they hold, what information they are privy to or whether they are performing their services through a corporate entity. Essentially, every person providing services to any business qualifies as a worker. This overreach could disrupt standard business contracts and inhibit Ohio manufacturers from engaging with external partners without fear of contractual instability.

Unnecessary Overreach and Legal Uncertainty

Under current Ohio law, non-compete agreements in the employment arena are already subject to well-established legal scrutiny. Almost fifty years ago, the Ohio Supreme Court held a non-competition agreement was reasonable when it was no greater than what was required for the protection of the employer, did not impose undue hardship on the employee, and was not injurious to the public. More recently, the Ohio Supreme Court reiterated that only reasonable noncompetition agreements are enforceable. Non-competition agreements must be shown to be reasonable based on nine (9) factors such as scope, geography, and duration and the necessity to protect an employer's legitimate business interests. In line with this long-standing authority, courts have consistently upheld non-competition agreements when they are narrowly tailored to protect such legitimate business interests from unfair competition and do not impose undue hardship on the employee. This judicial analysis is unique and fact-specific.

Senate Bill 11, however, takes a blanket approach, effectively nullifying all non-compete agreements without any evaluation or consideration for reasonableness or necessity. Essentially, Senate Bill 11 dictates that no company has any legitimate business interests to protect from unfair competition – from employees and non-employees engaged to provide services. This is an extreme departure from established legal standards and could expose manufacturers to unfair competition with zero recourse.

Threats to Workforce Development Programs

Many manufacturers invest heavily in employee training, tuition assistance, and apprenticeships to enhance workforce skills and productivity. These programs often come with an expectation of a commitment from the worker in exchange for no cost to the employee, ensuring businesses can recoup their investment. Senate Bill 11's prohibition on reimbursement agreements for training expenses would force many employers to reconsider offering such programs, ultimately harming workers who benefit from these valuable opportunities.

Negative Consequences for Business Agreements

Beyond non-compete clauses, Senate Bill 11 would also prohibit contractual provisions that require non-employee workers, including a worker that provides services through a business entity, from any obligation to reimburse for lost profits, goodwill, or liquidated damages for terminating the relationship. Another prohibited agreement with non-employee workers would be for any fees or costs when they prematurely end their engagement. By including non-employee workers, these provisions could incentivize workers, contractors and businesses providing services to Ohio manufacturers to unilaterally terminate their engagement, fail to fulfill their contracts, and walk away from any agreement without accountability or recourse, undermining fair business practices and creating financial instability for Ohio businesses.

If passed, Senate Bill 11 would put Ohio at a competitive disadvantage compared to other states that allow reasonable non-compete agreements, reimbursement agreements and for businesses to enter into viable contracts with third-parties. The bill's one-size-fits-all approach disregards the nuances of business relationships and removes essential tools manufacturers need to protect their businesses, employees, and intellectual property. We strongly urge this committee to reject Senate Bill 11 and instead support policies that foster economic growth, innovation, and fair competition in Ohio.

Thank you for your time and consideration. I am happy to answer any questions the committee may have.