

118TH CONGRESS
1ST SESSION

H. R. 5960

To amend the Fair Labor Standards Act of 1938 to impose restrictions relating to prospective employees' educational credentials, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 16, 2023

Mr. KRISHNAMOORTHY (for himself and Mr. JAMES) introduced the following bill

OCTOBER 25, 2023

Referred to the Committee on Education and the Workforce

A BILL

To amend the Fair Labor Standards Act of 1938 to impose restrictions relating to prospective employees' educational credentials, 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 “Opportunity to Com-
5 pete Act”.

1 **SEC. 2. RESTRICTIONS RELATING TO PROSPECTIVE EM-**
2 **PLOYEES' EDUCATIONAL CREDENTIALS.**

3 The Fair Labor Standards Act of 1938 (29 U.S.C.
4 201 et seq.) is amended by inserting after section 7 the
5 following new section:

6 **“SEC. 8. GUIDANCE RELATING TO EDUCATIONAL CREDEN-**
7 **TIALS.**

8 “(a) IN GENERAL.—Except as provided in subsection
9 (b), an employer may only use, in the consideration of pro-
10 spective employees for a position of employment, a com-
11 puterized hiring system if such system—

12 “(1) discloses to the prospective employee the
13 median years or expected years of experience re-
14 quired for a position, which may include experience
15 received through military service, community college,
16 training programs, and some college; and

17 “(2) if the employer requires a bachelor’s de-
18 gree for the position, considers a prospective em-
19 ployee who has the required years of experience de-
20 scribed in paragraph (1) as meeting the degree re-
21 quirement.

22 “(b) WAIVER OF REQUIREMENT.—

23 “(1) IN GENERAL.—The Secretary of Labor
24 shall provide an exemption to the requirements
25 under paragraph (2) of subsection (a) with respect
26 to certain positions of employment with an employer

1 if such employer demonstrates to the satisfaction of
2 the Secretary that—

3 “(A) the skills and knowledge required for
4 such position of employment cannot reasonably
5 be obtained without a bachelor’s degree; and

6 “(B) the employer discloses the require-
7 ment of a bachelor’s degree to all prospective
8 employees in a timely manner.

9 “(2) APPLICATION FOR EXEMPTION.—An em-
10 ployer seeking an exemption under this subsection
11 shall submit an application for such exemption to
12 the Secretary of Labor at such time and in such
13 manner as the Secretary may require.

14 “(3) TIMELINE FOR EXEMPTION APPLICA-
15 TION.—The Secretary of Labor shall—

16 “(A) not later than 7 days after receiving
17 an application for an exemption, notify the em-
18 ployer submitting such application that the Sec-
19 retary of Labor has received their application;
20 and

21 “(B) not later than 14 days after receiving
22 such an application, notify such employer
23 whether the application has been accepted or
24 denied.

1 “(c) EXEMPTION FOR CERTAIN EMPLOYERS.—An
2 employer that employs less than 500 employees shall not
3 be subject to the requirements of this section.

4 “(d) ENFORCEMENT.—Not later than 1 year after
5 the date of enactment of the Opportunity to Compete Act,
6 the Secretary of Labor shall establish appropriate proce-
7 dures for the enforcement of this section.

8 “(e) COMPUTERIZED HIRING SYSTEM DEFINED.—
9 For the purposes of this section, the term ‘computerized
10 hiring system’ means a recruitment management system,
11 recruitment marketing system, applicant tracking system,
12 or any other computer-based system that receives, man-
13 ages, tracks, evaluates, or responds to applications for em-
14 ployment.”.

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