

115TH CONGRESS
1ST SESSION

S. 2110

To amend title 38, United States Code, to provide for the non-applicability of non-Department of Veterans Affairs covenants not to compete to the appointment of certain Veterans Health Administration personnel, and for other purposes.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 9, 2017

Mrs. McCASKILL introduced the following bill; which was read twice and referred to the Committee on Veterans' Affairs

A BILL

To amend title 38, United States Code, to provide for the non-applicability of non-Department of Veterans Affairs covenants not to compete to the appointment of certain Veterans Health Administration personnel, 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 “Department of Vet-
5 erans Affairs Fairness in Hiring Act of 2017”.

1 **SEC. 2. NON-APPLICABILITY OF NON-DEPARTMENT OF VET-**
2 **ERANS AFFAIRS COVENANTS NOT TO COM-**
3 **PETE TO APPOINTMENT OF VETERANS**
4 **HEALTH ADMINISTRATION PERSONNEL.**

5 (a) IN GENERAL.—Subchapter I of chapter 74 of title
6 38, United States Code, is amended by adding at the end
7 the following new section:

8 **“§ 7413. Effect of non-Department covenants not to**
9 **compete**

10 “(a) NON-APPLICABILITY.—Except as provided in
11 subsection (b), in the case of an individual who is an appli-
12 cant for appointment to a position in the Veterans Health
13 Administration described in section 7401 of this title, any
14 covenant not to compete into which the individual has en-
15 tered with a non-Department facility or employer shall
16 have no force or effect with respect to the appointment
17 of the individual to such a position.

18 “(b) TERMINATION OF DEPARTMENT EMPLOY-
19 MENT.—In the case of an individual who is appointed to
20 such a position in the Veterans Health Administration
21 who has entered into a covenant not to compete that is
22 rendered non-applicable pursuant to subsection (a), if the
23 individual’s employment at the Veterans Health Adminis-
24 tration is terminated for any reason before the specified
25 period of time in such covenant, then such covenant shall
26 apply with respect to that individual for the period begin-

1 ning on the date of the termination of the individual’s em-
 2 ployment at the Veterans Health Administration and end-
 3 ing on the last day of such specified period of time.

4 “(c) COVENANT NOT TO COMPETE.—In this section,
 5 the term ‘covenant not to compete’ means an agreement—

6 “(1) between an employee and employer that
 7 restricts such employee from performing—

8 “(A) any work for another employer for a
 9 specified period of time;

10 “(B) any work in a specified geographical
 11 area; or

12 “(C) work for another employer that is
 13 similar to such employee’s work for the em-
 14 ployer included as a party to the agreement;
 15 and

16 “(2) that is entered into after the date of enact-
 17 ment of the Department of Veterans Affairs Fair-
 18 ness in Hiring Act of 2017.”.

19 (b) CLERICAL AMENDMENT.—The table of sections
 20 at the beginning of such chapter is amended by inserting
 21 after the item relating to section 7412 the following new
 22 item:

“7413. Effect of non-Department covenants not to compete.”.

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