

# Union Calendar No. 181

118<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 5424

[Report No. 118-222]

To amend the Small Business Economic Policy Act of 1980 to examine how the competitiveness of small businesses is affected by the enforcement of Federal antitrust laws, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 13, 2023

Ms. SCHOLTEN (for herself, Mr. LUETKEMEYER, Ms. VELÁZQUEZ, and Ms. TENNEY) introduced the following bill; which was referred to the Committee on Small Business

SEPTEMBER 26, 2023

Reported from the Committee on Small Business; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

# **A BILL**

To amend the Small Business Economic Policy Act of 1980 to examine how the competitiveness of small businesses is affected by the enforcement of Federal antitrust laws, 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 “Main Street Competes  
5 Act”.

6 **SEC. 2. CONGRESSIONAL DECLARATION OF SMALL BUSI-**  
7 **NESS ECONOMIC POLICY.**

8 Section 302(a) of the Small Business Economic Pol-  
9 icy Act of 1980 (15 U.S.C. 631a(a)) is amended—

10 (1) by striking “and provide” and inserting  
11 “provide”; and

12 (2) by striking the period at the end and insert-  
13 ing “; and promote competitive markets, consumer  
14 choice, and business ownership through enforcement  
15 of Federal antitrust laws in the case of anticompeti-  
16 tive conduct that harms small businesses and the  
17 growth of small businesses.”.

18 **SEC. 3. STATE OF SMALL BUSINESSES.**

19 (a) IN GENERAL.—Section 303 of the Small Business  
20 Economic Policy Act of 1980 (15 U.S.C. 631b) is amend-  
21 ed to read as follows:

22 **“SEC. 303. REPORT ON THE STATE OF SMALL BUSINESS**  
23 **CONCERNS.**

24 “(a) SPECIFIED ENTITY REPORT.—Not later than  
25 180 days after the end of fiscal year 2023 and each fiscal

1 year thereafter, the head of each specified entity shall submit to the Chief Counsel for Advocacy of the Office of Advocacy of the Small Business Administration a report including—

5           “(1) an analysis of how enforcement by the  
6           specified entity of Federal antitrust laws promoted  
7           competition during the preceding fiscal year by deterring and remedying anticompetitive conduct that  
8           harms small businesses and the growth of small  
9           businesses;  
10          businesses;

11           “(2) the number of complaints of alleged anti-  
12          trust violations filed by small businesses with the  
13          specified entity during such fiscal year,  
14          disaggregated by category of the alleged antitrust  
15          violation, type of offense, and the specific Federal  
16          antitrust laws allegedly violated;

17           “(3) the number of inquiries, investigations,  
18          and enforcement actions undertaken by the specified  
19          entity in response to complaints filed by small businesses with the specified entity during such fiscal  
20          year; and  
21          year; and

22           “(4) the number of inquiries, investigations,  
23          and enforcement actions undertaken by the specified  
24          entity during such fiscal year pursuant to an alleged  
25          antitrust violation, opened for a reason other than

1 described in paragraph (3), to deter and remedy  
2 anticompetitive conduct that harms small businesses  
3 and the growth of small businesses.

4 “(b) OFFICE OF ADVOCACY REPORT.—Not later than  
5 180 days after receipt of the report required by subsection  
6 (a), the Chief Counsel for Advocacy shall submit to the  
7 Committee on Small Business of the House of Representa-  
8 tives and the Committee on Small Business and Entrepre-  
9 neurship of Senate a report that includes—

10 “(1) a summary of the report submitted under  
11 subsection (a);

12 “(2) an analysis of the data in such report,  
13 disaggregated by industry category;

14 “(3) an evaluation of the issues identified in  
15 such report relating to—

16 “(A) anticompetitive conduct that harmed  
17 small businesses and the growth of small busi-  
18 nesses; and

19 “(B) administrative actions that promoted  
20 competition and growth of small businesses;

21 “(4) as appropriate, recommendations for ad-  
22 ministrative actions that could—

23 “(A) promote competition;

1           “(B) deter anticompetitive conduct that  
2           harmed small business and the growth of small  
3           businesses; and

4           “(C) remedy such anticompetitive conduct;  
5           and

6           “(5) as appropriate, recommendations for legis-  
7           lative actions that could—

8           “(A) promote competition;

9           “(B) deter anticompetitive conduct that  
10          harmed small business and the growth of small  
11          businesses; and

12          “(C) remedy such anticompetitive con-  
13          duct.”.

14          (b) DEFINITIONS.—The Small Business Economic  
15          Policy Act of 1980 (Public Law 96–302; 94 Stat. 848;  
16          15 U.S.C. 631a et seq.) is amended by adding at the end  
17          the following new section:

18          **“SEC. 304. DEFINITIONS.**

19                 “In this title:

20                 “(1) ANTITRUST VIOLATION.—The term ‘anti-  
21                 trust violation’ means any violation of Federal anti-  
22                 trust laws.

23                 “(2) FEDERAL ANTITRUST LAWS.—The term  
24                 ‘Federal antitrust laws’ has the meaning given the  
25                 term ‘antitrust laws’ in subsection (a) of the first

1 section of the Clayton Act (15 U.S.C. 12(a)), except  
2 that such term shall also include section 5 of the  
3 Federal Trade Commission Act (15 U.S.C. 45) to  
4 the extent that such section 5 applies to unfair  
5 methods of competition.

6 “(3) SMALL BUSINESS.—The term ‘small busi-  
7 ness’ has the meaning given ‘small business concern’  
8 under section 3 of the Small Business Act (15  
9 U.S.C. 632).

10 “(4) SPECIFIED ENTITY.—The term ‘specified  
11 entity’ means—

12 “(A) the Department of Justice; and

13 “(B) the Federal Trade Commission.”.

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