

For the record, my name is Wendy Mays and I am the Executive Director of the Vermont Association of Broadcasters.

Thank you for allowing me to speak on behalf of the eight television stations and 98 radio stations operating throughout the state of Vermont.

I want to thank this committee for the hard work you've put into H.1 already. I can tell by reading the draft revisions that you have put a lot of time, energy and consideration into creating this piece of legislation. I can also tell by your witness list that you have heard a lot of testimony, both from individuals who have personal stories about their experiences with non-compete agreements as well as business owners who use non-compete, non-solicitation and non-disclosure agreements to protect their interests.

I come before you today representing an association with over 600 Vermonters as members. Our membership is comprised not only of around 50 owners and general managers, but around 550 executives, professionals and administrative employees who work together to produce the local newscasts and 24 hours of programming you watch on TV and the 24 hours of music, talk and local programs you listen to on your radio. We are not only the anchors, reporters, meteorologists and sportscasters you see on camera or DJs you hear on the microphone, we are also the engineers, producers, editors, accountants and support staff behind the scenes.

More than 75% of these stations are operated by owners living in Vermont or New Hampshire who go to work alongside their employees every day. And more than 75% are small operations with limited resources. But there's one thing all Vermont radio and television stations no matter their size have in common. They are all struggling to turn a profit. Because the product we produce is free as a service to the communities we serve, radio and television stations only have one source of revenue and that is advertising.

A myriad of streaming services vying for people's time and attention are threatening our industry. And digital advertising from big corporations like Facebook and Google are taking the local advertising dollars radio and television stations rely on to pay their bills. The only thing that sets us apart is our localism, which is driven by the personalities that are the faces and voices of our stations. Taking away the ability of a station to protect their human resource investments and by extension their brand will take away our ability to compete with big corporations taking our revenue.

The struggle not to go dark is real and the reason I point that out is because I want to make sure this committee understands, these radio and television stations I represent are not owned by fat cats sitting back and collecting profits while their employees struggle. These owners and GMs are in the trenches everyday, fighting to make every dollar stretch so they can keep going.

Stations take chances on young on-air talent that show potential and invest a lot of time, resources and money into cultivating that talent, nurturing their image and elevating their public persona.

That is why the Vermont Association of Broadcasters cannot support legislation that *prevents* stations from protecting their investments and *forces* stations to pay money that is not merit based or earned following a performance review.

One can make the argument that if protecting their investment is truly that important, the employer should make sure the talent is content and give them incentives not to defect to the competition across the street. In a perfect world, that argument makes sense, but if the money is not there, it's not there.

There is no big stockpile of profits to pay higher salaries or offer more benefits. If the General Assembly votes to increase minimum wage, that's already going to have a catastrophic effect on most broadcasters ability to continue operating at the level they have been.

That is why Vermont Association of Broadcasters urges this committee to consider the following revisions to H.1

- We ask that the wage/salary threshold be lowered from one and a half times that of the average annual wage in Vermont, to the *actual* average annual wage in Vermont, somewhere around \$57,000, which is more in line with the average salary of people working in radio and television.
- We support the provision about presenting the agreement not to compete either with the job offer or 10 days prior to their start date, thus giving the candidate an opportunity to have the agreement reviewed by an attorney. However, we ask that the provision about the employer having to pay two hours of attorney fees be stricken from the draft as it is not fair to ask businesses to front \$500 or more on a candidate that hasn't been hired yet.
- We support the removal of the Garden Leave clause and urge you to keep it out of any future revisions to this bill as it is a provision we vehemently disagree with
- Finally, I ask this committee to think about business owners and how difficult it *already* is to do business in the state of Vermont. Passing this legislation as written will only make it more difficult. Instead, I urge this committee to look at the extremely high cost of living in this state and consider ways to make it more affordable to live here based on the average Vermonter's income instead of creating ways to raise wages, which will in turn put small businesses out of business.

In closing, Non-solicitation agreements prevent the loss of customers, Non-Disclosure agreements prevent the loss of industry secrets, but what prevents the loss of talent whose faces are branded with the stations who helped make the famous? A non-compete agreement.

I appreciate this committee giving me the opportunity to speak and I hope you will consider the Vermont Association of Broadcasters a resource and include us as you continue this important conversation.