



PRESS RELEASE

Attorney General Frosh Joins Coalition of Attorneys General in Opposition of Proposed Rule Weakening Employee Protections *NLRB's Proposed Rules Would Narrow Definition of "Joint Employer," Make it Harder to Hold Employers Accountable for Labor Violations*

BALTIMORE, MD (January 14, 2019) – Maryland Attorney General Brian E. Frosh today joined a coalition of 11 attorneys general opposing the National Labor Relations Board's (NLRB) proposal to unreasonably narrow its joint employer standard. The joint employer standard of the National Labor Relations Act (NLRA) governs the status and liability of an employer that shares control over the terms and conditions of workers' employment with another employer, such as in a franchising or subcontracting relationship. In comments filed today, the attorneys general expressed concerns about the integrity of this rulemaking and the harm on workers and residents in their respective states.

"This proposed rule falls short of providing employees fundamental legal protection in the workplace," said Attorney General Frosh. "Our government should support strong employee protections. Instead this proposed rule would hinder and weaken employees' rights and make it difficult to hold companies accountable for unfair labor practices."

The comment letter contends that the Proposed Rule undermines the statutory purposes of the NLRA, will make enforcement of the NLRA more difficult, and raises serious concerns under the Administrative Procedure Act. In particular, the attorneys general question the integrity of this rulemaking, which attempts to push forward the same joint-employer standard adopted in a 2017 NLRB ruling that was later thrown out because of a potential conflict of interest by one of the deciding NLRB members – who also participated in this rulemaking.

The current joint employer standard under the NLRA was set forth by the NLRB in a 2015 decision, which concluded that a company is an employer if it possesses the right to control or actually exercises control, whether direct or indirect, over employees' terms and conditions of employment. Just two weeks ago, the U.S. Court of Appeals for the District of Columbia affirmed this decision in *Browning-Ferris Indus. v. NLRB*, No. 16-1028, (D.C. Cir. Dec. 28, 2018).

In addition to Maryland, the comment letter was joined by the Attorneys General of California, the District of Columbia, Illinois, Massachusetts, New Jersey, New York, Oregon, Pennsylvania, Virginia, and Washington.