

The Senate Judiciary Committee offered the following substitute to HR 178:

## A RESOLUTION

1 Proposing an amendment to the Constitution so as to authorize the General Assembly to  
 2 provide for contracts that limit competitive activities between or among employers and  
 3 employees, distributors and manufacturers, lessors and lessees, partnerships and partners,  
 4 franchisors and franchisees, sellers and purchasers of a business or commercial enterprise,  
 5 or two or more employers; to provide for the submission of this amendment for ratification  
 6 or rejection; and for other purposes.

7 BE IT RESOLVED BY THE GENERAL ASSEMBLY OF GEORGIA:

### SECTION 1.

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 9 Article III, Section VI, Paragraph V of the Constitution is amended by revising subparagraph  
 10 (c) as follows:

11 "(c)(1) The General Assembly shall not have the power to authorize any contract or  
 12 agreement which may have the effect of or which is intended to have the effect of  
 13 defeating or lessening competition, or encouraging a monopoly, which are is hereby  
 14 declared to be unlawful and void. Except as otherwise provided in subparagraph (c)(2)  
 15 of this paragraph, the General Assembly shall not have the power to authorize any  
 16 contract or agreement which may have the effect of or which is intended to have the  
 17 effect of defeating or lessening competition, which is hereby declared to be unlawful and  
 18 void.

19 (2) The General Assembly shall have the power to authorize and provide by general  
 20 law for judicial enforcement of contracts or agreements restricting or regulating  
 21 competitive activities between or among:

22 (A) Employers and employees;

23 (B) Distributors and manufacturers;

24 (C) Lessors and lessees;

25 (D) Partnerships and partners;

26 (E) Franchisors and franchisees;

27 (F) Sellers and purchasers of a business or commercial enterprise; or

28            (G) Two or more employers.  
 29            (3) The authority granted to the General Assembly in subparagraph (c)(2) of this  
 30 paragraph shall include the authority to grant to courts by general law the power to limit  
 31 the duration, geographic area, and scope of prohibited activities provided in a contract or  
 32 agreement restricting or regulating competitive activities to render such contract or  
 33 agreement reasonable under the circumstances for which it was made."

**SECTION 2.**

The above proposed amendment to the Constitution shall be published and submitted as provided in Article X, Section I, Paragraph II of the Constitution. The ballot submitting the above proposed amendment shall have written or printed thereon the following:

"( ) YES Shall the Constitution of Georgia be amended so as to permit the General Assembly to enact laws that authorize contract provisions regarding competitive agreements to enable courts to uphold the agreements and to enable courts to ensure the reasonableness of such contracts?"

All persons desiring to vote in favor of ratifying the proposed amendment shall vote "Yes."  
 All persons desiring to vote against ratifying the proposed amendment shall vote "No." If such amendment shall be ratified as provided in said Paragraph of the Constitution, it shall become a part of the Constitution of this state.