

ALEC EXPOSED

"ALEC" has long been a secretive collaboration between Big Business and "conservative" politicians. Behind closed doors, they ghostwrite "model" bills to be introduced in state capitols across the country. This agenda-underwritten by global corporations—includes major tax loopholes for big industries and the super rich, proposals to offshore U.S. jobs and gut minimum wage, and efforts to weaken public health, safety, and environmental protections. Although many of these bills have become law, until now, their origin has been largely unknown. With **ALEC EXPOSED**, the Center for Media and Democracy hopes more Americans will study the bills to understand the depth and breadth of how big corporations are changing the legal rules and undermining democracy across the nation.

ALEC's Corporate Board --in recent past or present

- AT&T Services, Inc.
- centerpoint360
- UPS
- Bayer Corporation
- GlaxoSmithKline
- Energy Future Holdings
- Johnson & Johnson
- Coca-Cola Company
- PhRMA
- Kraft Foods, Inc.
- Coca-Cola Co.
- Pfizer Inc.
- Reed Elsevier, Inc.
- DIAGEO
- Peabody Energy
- Intuit, Inc.
- Koch Industries, Inc.
- ExxonMobil
- Verizon
- Reynolds American Inc.
- Wal-Mart Stores, Inc.
- Salt River Project
- Altria Client Services, Inc.
- American Bail Coalition
- State Farm Insurance

For more on these corporations, search at www.SourceWatch.org.

DID YOU KNOW? Corporations VOTED to adopt this. Through ALEC, global companies work as "equals" in "unison" with politicians to write laws to govern your life. Big Business has "a VOICE and a VOTE," according to newly exposed documents. **DO YOU?**

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Economic Civil Rights Act

Did you know that global corporation Kraft Foods was the corporate co-chair in 2011?

Summary

Among the rights Americans cherish the most are freedoms to pursue a chosen enterprise or profession. Yet of all the rights we deem fundamental, economic liberty has eroded most of all, to the extent that the "right" to receive a welfare check today enjoys greater legal protection than the right to earn an honest living.

Licensing and regulation of businesses and professions - often placed in the hands of the regulated industry-artificially limit entry and reduce competition. Myriad entry-level opportunities are affected by occupational licensing laws, government-imposed monopolies in businesses such as taxicabs and trash hauling, and restrictions on home-based businesses such as day-care centers.

The principal victims of these of these restrictions are people outside the economic mainstream, for whom the bottom rungs of the economic ladder are cut off. This model legislation would ensure that all such regulations are limited to legitimate public health, safety, and welfare objectives, and that individuals are free to earn a share of the American Dream.

Note: The model legislation is based upon a draft by Clint Bolick, litigation director at the Institute for Justice in Washington, D.C., a public interest law center that challenges barriers to opportunity in the courts.

Model Legislation

Section 1. This Act may be referred to as the "Economic Civil Rights Act."

Section 2. {Statement of Findings and Purposes.}

(A)The legislature hereby finds and declares that:

(1)The right of individuals to pursue a chosen business or profession, free from arbitrary or excessive government interference, is a fundamental civil right.

(2)The freedom to earn an honest living traditionally has provided the surest means for economic mobility.

(3)In recent years, many regulations of entry into businesses and professions have exceeded legitimate public purposes and have had the effect of arbitrarily limiting entry and reducing competition.

(4)The burden of excessive regulation is borne most heavily by individuals outside the economic mainstream, for whom opportunities for economic advancement are curtailed.

(5)It is in the public interest:

(a) To ensure the right of all individuals to pursue legitimate entrepreneurial and professional opportunities to the limits of their talent and ambition;

(b)To provide the means for the vindication of this right; and

(c)To ensure that regulations of entry into businesses and professions are demonstrably necessary and carefully tailored to legitimate health, safety, and welfare objectives.

Section 3. {Definitions.}

(A)"Agency" shall be broadly construed to include the state, all units of state government and all units of government and shall exclude no entity established under the constitution or laws of the state or established by any entity which was itself established under the constitution or laws of the state.

(B) "Entry regulations" shall include any law, ordinance, regulation, rule, policy, fee, condition, test, permit, administrative practice, or other provision relating in a market, or the opportunity to engage in any occupation or profession.

(C)"Public service restrictions" shall include any law, ordinance, regulation, rule, policy, fee, condition, test, permit, administrative practice or other provision the effect of which is to exclude or limit the use of private firms from providing public services under the supervision of agencies, with or without the support of public subsidy and/or user fees.

(D)"Welfare" shall be narrowly construed to encompass protection of members of the public against fraud or harm. This term shall not encompass the protection of existing businesses or agencies, whether publicly or privately owned, against competition.

(E)"Subsidy" shall include taxes, grants, user fees or any other funds received by or on behalf of an agency.

Section 4. {Limitation on Entry Regulations.} All entry regulations with respect to businesses and professions shall be limited to those demonstrably necessary and carefully tailored to fulfill legitimate public health, safety, or welfare objectives.

Section 5. { Limitation on Public Service Restrictions.} All public service restrictions shall be limited to those demonstrably necessary and carefully tailored to fulfill legitimate public health, safety, or welfare objectives.

Section 6. {Elimination of Entry Regulations. }

(A)Within one year following enactment, every agency shall conduct a comprehensive review of all entry regulations within their jurisdictions, and for each such entry regulation it shall:

(1)Articulate with specificity the public health, safety, or welfare objective(s) served by the regulation, and

(2)Articulate the reason(s) why the regulation is necessary to serve the specified objective(s).

(B)To the extent the agency finds any regulation that does not satisfy the standard set forth in Section 4, it shall:

(1)Repeal the entry regulation or modify the entry regulation to conform with the standard of Section 4 if such action is not within the agency's authority to do so; or

(2) Recommend to the legislature actions necessary to repeal or modify the entry regulation to conform to the standard of Section 4 if such action is not within the agency's authority.

(C)Within 15 months following enactment, each agency shall report to the legislature on all actions taken to conform with this section.

Section 7. {Elimination of Public Service Restrictions}.

(A) Within one year following enactment, every agency shall establish, and within 18 months following enactment implement a routine private participation process with respect to the public services under its jurisdiction. Such process shall require that:

(1) Private companies be permitted to perform public services that can be produced without subsidy. An agency may establish reasonable requirements with respect to notice of entry and exit.

(2) Private companies be permitted to periodically and fairly compete for contracts to perform public services that cannot be produced without subsidy.

(3) Private companies not be precluded from commercially producing any service under the jurisdiction of the agency which is not included in (1) or (2) above.

(B) The competitive process required by (A)(2) shall be designed to allow the maximum extent of participation by private firms of all sizes and shall:

(1) Rely upon multiple contracts wherever feasible, and

(2) Not include any provisions or arrangements that have the effect of limiting competition or precluding participation except as necessary to achieve the standard set forth in Section 5.

(C) Every agency shall have the authority to establish reasonable standards of customer service with respect to public services under Sections (A)(1) and (A)(2) above.

(D) Every agency shall recommend to the legislature actions necessary to repeal or modify any public service restriction to conform to the standard set forth in Section 5 if such action is not within the agency's authority.

(E) Within 15 months following enactment, each agency shall report to the legislature on all actions taken to conform with this section.

Section 8. {Administrative proceedings}.

(A) Any person may petition any agency to repeal or modify any entry regulation into a business or profession within its jurisdiction.

(B) Within 90 days of a petition filed under (A) above, the agency shall either repeal the entry regulation, modify the regulation to achieve the standard set forth in Section 4, or state the basis on which it concludes the regulation conforms with the standard set forth in Section 4.

(C) Any person may petition any agency to repeal or modify a public service restriction within its jurisdiction.

(D) Within 90 days of a petition filed under (C) above, the agency shall either establish and within 9 months implement the requirements of Section 7, or state the basis on which it concludes the public service restriction conforms with the standard set forth in

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Section 5.

Section 9. {Prohibition of Restrictive Provisions}

(A) Notwithstanding any other provision of law, an agency shall not award or extend any franchise that has the effect of conflicting with either Section 4 or Section 5.

(B) Notwithstanding any other provision of law, an agency shall not execute or extend any contract provision, including any labor contract provision that has the effect of conflicting with either Section 4 or Section 5.

(C) This section shall not require the cancellation of any contract clause in effect as of January 1 of the year of enactment so long as the contract expires no later than 24 months after enactment.

Section 10. {Enforcement.}

(A) Any time after 90 days following a petition filed pursuant to Section 6 that has not been favorably acted upon by the agency, the person(s) filing a petition challenging an entry regulation or public service restriction may file an action in a Court of general jurisdiction.

(B) With respect to the challenge of an entry regulation, the plaintiff(s) shall prevail if the Court finds by a preponderance of evidence that the challenged entry regulation on its face or in its effect burdens the creation of a business, the entry of a business into a particular market, or entry into a profession or occupation; and either

(1) That the challenged entry regulation is not demonstrably necessary and carefully tailored to fulfill legitimate public health, safety, or welfare objectives; or

(2) Where the challenged entry regulation is necessary to the legitimate public health, safety, or welfare objectives, such objectives can be effectively served by regulations less burdensome to economic opportunity.

(C) With respect to the challenge of a public service restriction, the plaintiff(s) shall prevail if the court finds by a preponderance of the evidence that on its face or in its effect the public service restriction limits participation by private companies in the provision of public services or other services under the jurisdiction of the agency, and either:

(1) That the challenged public service restriction is not demonstrably necessary and carefully tailored to fulfill legitimate public health, safety or welfare objectives; or

(2) Where the challenged public service restriction is necessary to fulfill legitimate public health, safety or welfare objectives, such objectives can be effectively served by restrictions that allow greater private participation.

(D) Upon a finding for the plaintiff(s), the Court shall enjoin further enforcement of the challenged entry regulation or public service restriction, and shall award reasonable attorney's fees and costs to the plaintiff(s).

Section 11. {Severability clause.}

Section 12. {Repealer clause.}

Section 13. {Effective date.}

Were your laws repealed?

1995 Sourcebook of American State Legislation

About Us and ALEC EXPOSED. The Center for Media and Democracy reports on corporate spin and government propaganda. We are located in Madison, Wisconsin, and publish www.PRWatch.org, www.SourceWatch.org, and now www.ALECExposed.org. For more information contact: editor@prwatch.org or 608-260-9713.

Center for Media and Democracy's quick summary

This bill hijacks the language of the Civil Rights movement to achieve corporate agendas through deregulation. It creates new requirements for agencies to privatize services and requires regulatory bodies to consistently justify regulations deemed burdensome for business.

Note that the legislation is based upon a draft from the litigation director at the Institute for Justice.

Although drafted in 1995, Economic Bill of Rights legislation has been introduced in Tennessee in the 2009-2010 session.