
ENGROSSED HOUSE BILL 1967

State of Washington

65th Legislature

2017 Regular Session

By Representatives Stanford, Ormsby, and Pollet

Read first time 02/06/17. Referred to Committee on Labor & Workplace Standards.

1 AN ACT Relating to noncompetition agreements; adding a new
2 section to chapter 49.44 RCW; and creating a new section.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 NEW SECTION. **Sec. 1.** A new section is added to chapter 49.44
5 RCW to read as follows:

6 (1) An unreasonable noncompetition agreement is void and
7 unenforceable. If a court finds a noncompetition agreement
8 unreasonable, it may reform the agreement to make it reasonable and
9 enforceable. If a court reforms an agreement, the party seeking to
10 declare the agreement void shall be deemed the prevailing party for
11 purposes of the agreement and under law.

12 (2) For a noncompetition agreement to be enforceable, the
13 employer must disclose the terms of the agreement in writing to the
14 prospective employee no later than the time of the acceptance of the
15 offer of employment or, if the agreement is entered into after the
16 commencement of employment, the employer must provide independent
17 consideration for the agreement.

18 (3) The reformation or unenforceability of a noncompetition
19 agreement does not affect the enforceability of any form of
20 confidentiality, nonsolicitation, or other agreement, or any other
21 terms and conditions between the parties, regardless of whether the

1 other agreement or terms or conditions are contained in the same
2 document as a noncompetition agreement.

3 (4) If an employer requires an employee to enter into a
4 noncompetition agreement containing provisions the employer knows are
5 unenforceable, the employee may recover actual damages, together with
6 statutory damages of five thousand dollars and reasonable attorneys'
7 fees and costs.

8 (5) For purposes of this section:

9 (a) "Confidentiality agreement" means an agreement between an
10 employer and employee that protects proprietary and confidential
11 information including sales information, business strategies and
12 plans, customer information, price information, and trade secrets as
13 defined in RCW 19.108.010.

14 (b) "Employee" means an employee of an employer.

15 (c) "Employer" means any person, firm, corporation, partnership,
16 business trust, legal representative, or other entity that engages in
17 any business, industry, profession, or activity in this state and
18 employs one or more employees, and includes the state, counties,
19 cities, all municipal corporations, public corporations, political
20 subdivisions of the state, and charitable organizations.

21 (d) "Noncompetition agreement" means an agreement between an
22 employer and an employee that is specifically designed to impede the
23 ability of an employee to compete with the employer upon the
24 termination of the employment relationship. A "noncompetition
25 agreement" does not include a confidentiality agreement or a
26 nonsolicitation agreement.

27 (e) "Nonsolicitation agreement" means an agreement between an
28 employer and employee that prohibits solicitation by an employee,
29 upon termination of employment: (i) Of any employee of the employer
30 to leave the employer; or (ii) of any customer of the employer to
31 cease doing business with the employer or to compete with the
32 employer.

33 (6) Except as provided in this section, this section does not
34 restrict the right of an employer from entering into a
35 confidentiality or nonsolicitation agreement, or other terms and
36 conditions of the employment or engagement, with an employee.

1 NEW SECTION. **Sec. 2.** This act applies to agreements entered
2 into on or after the effective date of this section.

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