
SUBSTITUTE SENATE BILL 6522

State of Washington

65th Legislature

2018 Regular Session

By Senate Labor & Commerce (originally sponsored by Senators Lias and Fain)

READ FIRST TIME 02/02/18.

1 AN ACT Relating to protecting workers from work restrictions;
2 adding new sections to chapter 49.44 RCW; creating new sections; and
3 declaring an emergency.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that workforce
6 mobility is important to economic growth and development. Further,
7 the legislature finds that agreements limiting competition or hiring
8 are frequently contracts of adhesion that may be unreasonable.

9 NEW SECTION. **Sec. 2.** A new section is added to chapter 49.44
10 RCW to read as follows:

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

17 (2) A noncompetition agreement is unreasonable, and void and
18 unenforceable:

19 (a) If the annual compensation, excluding benefits, of the
20 employee is less than three times the average weekly wage as

1 established under RCW 50.04.355 at the time of entering into the
2 contract.

3 (b) If the employee is terminated due to a reduction in force,
4 unless enforcement of the noncompetition agreement includes
5 compensation during the period of enforcement equivalent to the
6 employee's full salary during the four quarters of employment with
7 that employer prior to enforcement.

8 (3) A rebuttable presumption is established that a noncompetition
9 agreement is unreasonable and void and unenforceable for any period
10 of time beyond a one year duration. A party to the agreement may
11 rebut the presumption with clear and convincing evidence that the
12 duration beyond one year is reasonably necessary to protect the
13 business or goodwill of the party.

14 (4) A provision in a contract or agreement signed by an employee
15 who primarily resides and works in Washington state is void and
16 unenforceable if it deprives the employee of the substantive
17 protection of Washington law.

18 (5) A noncompetition agreement between a performer and a
19 performance space, or a third party scheduling the performer for a
20 performance space, may not restrict the performer from performing in
21 a geographic region for a period longer than three days.

22 (6) A noncompetition agreement between an entity engaging an
23 independent contractor and an independent contractor is void and
24 unenforceable.

25 (7) Except as otherwise expressly provided, this section does not
26 revoke, modify, or impede the development of the common law.

27 (8) This section applies to noncompetition agreements entered
28 into on or after the effective date of this section.

29 NEW SECTION. **Sec. 3.** A new section is added to chapter 49.44
30 RCW to read as follows:

31 An employer may not restrict, restrain, or prohibit an employee
32 working fewer than forty hours per week or earning less than two
33 hundred percent of the applicable state or local minimum wage from
34 having an additional job, supplementing their income by working for
35 another employer, working as an independent contractor, or being
36 self-employed.

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

1 The definitions in this section apply throughout sections 1
2 through 3 of this act unless the context clearly requires otherwise.

3 (1) "Employee" and "employer" have the same meanings as in RCW
4 49.17.020.

5 (2) "Noncompetition agreement" includes every written or oral
6 covenant, agreement, or contract by which an employee is prohibited
7 or restrained from engaging in a lawful profession, trade, or
8 business of any kind. A "noncompetition agreement" does not include:
9 (a) A nonsolicitation agreement; (b) a confidentiality agreement; (c)
10 an agreement prohibiting use or disclosure of trade secrets; or (d) a
11 covenant, agreement, or contract entered into by an employee with an
12 ownership interest in a limited liability company or in a
13 partnership.

14 (3) "Nonsolicitation agreement" means an agreement between an
15 employer and employee that prohibits solicitation by an employee,
16 upon termination of employment: (a) Of any employee of the employer
17 to leave the employer; or (b) of any customer of the employer to
18 cease doing business with the employer.

19 NEW SECTION. **Sec. 5.** The legislature finds that sections 2 and
20 3 of this act are matters vitally affecting the public interest for
21 the purposes of applying the consumer protection act, chapter 19.86
22 RCW. Any enforcement or attempted enforcement of a noncompetition
23 agreement that violates section 2 of this act, or is overly broad or
24 only partially enforceable, or any violation of section 3 of this
25 act, is not reasonable in relation to the development and
26 preservation of business and is an unfair or deceptive act in trade
27 or commerce and an unfair method of competition for the purpose of
28 applying the consumer protection act, chapter 19.86 RCW.

29 NEW SECTION. **Sec. 6.** This act is necessary for the immediate
30 preservation of the public peace, health, or safety, or support of
31 the state government and its existing public institutions, and takes
32 effect immediately.

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