
SECOND ENGROSSED SUBSTITUTE SENATE BILL 5526

State of Washington 52nd Legislature 1991 Regular Session

By Senate Committee on Commerce & Labor (originally sponsored by Senators Bauer, Newhouse, Moore, Nelson and Johnson).

Read first time March 6, 1991.

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

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

4 NEW SECTION. **Sec. 1.** The legislature declares that it is a
5 policy of the state of Washington that workers receive consideration
6 for entering into employee noncompetition agreements that affect their
7 future working and business activities.

8 NEW SECTION. **Sec. 2.** Unless the context clearly requires
9 otherwise, the definitions in this section apply to sections 1 through
10 3 of this act.

11 (1) "Employee" has the meaning of "worker" as defined in RCW
12 51.08.180, and also includes businesses and professionals regulated in
13 Title 18 RCW, except as provided under RCW 51.08.180.

14 (2) "Employer" has the meaning in RCW 51.08.070.

1 (3) "Employee noncompetition agreement" means a reasonable
2 agreement, written or oral, express or implied, between an employer and
3 employee under which the employee agrees not to compete, either alone
4 or as an employee of another, with the employer in providing products,
5 processes, or services after termination of employment.

6 NEW SECTION. **Sec. 3.** (1) Employee noncompetition agreements
7 entered into in the state of Washington after December 31, 1992, are
8 void and unenforceable by any court of this state unless:

9 (a)(i) The agreement is entered into on initial employment of the
10 employee by the employer; or

11 (ii) Additional consideration is provided by the employer to the
12 employee for entering into the agreement; and

13 (b) The agreement is fair and reasonable under prior decisions of
14 the courts of this state.

15 (2) Continued employment by itself shall not be considered
16 additional consideration for the purposes of subsection (1)(a)(ii) of
17 this section.

18 (3) Subsection (1) of this section applies only to employee
19 noncompetition agreements made in the context of an employment
20 relationship or contract.

21 NEW SECTION. **Sec. 4.** Nothing in sections 1 through 3 of this
22 act restricts the right of a person to protect trade secrets or other
23 proprietary information by lawful means in equity or under applicable
24 law.

25 NEW SECTION. **Sec. 5.** The enactment of sections 1 through 3 of
26 this act does not have the effect of terminating, or in any way

1 modifying, any liability that is already in existence on the effective
2 date of this act.

3 NEW SECTION. **Sec. 6.** Unless there is a specific conflict with
4 sections 1 through 3 of this act, the principles of law and equity
5 shall be supplementary to these provisions.

6 NEW SECTION. **Sec. 7.** Sections 1 through 6 of this act are
7 each added to chapter 49.44 RCW.