

SENATE BILL REPORT

SB 5720

As Reported By Senate Committee On:
Labor, Commerce, Research & Development, March 1, 2005

Title: An act relating to employee noncompetition agreements in the broadcasting industry.

Brief Description: Eliminating employee noncompetition agreements in the broadcasting industry.

Sponsors: Senators Keiser, Franklin and McAuliffe.

Brief History:

Committee Activity: Labor, Commerce, Research & Development: 2/17/05, 3/1/05 [DPS, DNP].

SENATE COMMITTEE ON LABOR, COMMERCE, RESEARCH & DEVELOPMENT

Majority Report: That Substitute Senate Bill No. 5720 be substituted therefor, and the substitute bill do pass.

Signed by Senators Kohl-Welles, Chair; Franklin, Vice Chair; Brown, Keiser and Prentice.

Minority Report: Do not pass.

Signed by Senators Parlette, Ranking Minority Member; and Honeyford.

Staff: Alison Mendiola (786-7483)

Background: Generally, a noncompetition agreement restricts a former employee from competing against his or her former employer. To be enforceable, the agreement must not impose unreasonable restrictions on the employee and must be necessary for the protection of the employer's business.

Under current law, an employee who has not signed a noncompetition agreement is free to compete against his or her former employer. A former employee may use general knowledge, skills, and experience acquired during the prior employment in competing with a former employer. A former employee may not, however, use or disclose trade secrets belonging to a former employer.

Summary of Substitute Bill: If a broadcasting industry employee subject to an employee noncompetition agreement is terminated or laid off, the noncompetition agreement is null and void. This prohibition does not restrict the right of an employer to protect trade secrets or other proprietary information.

Substitute Bill Compared to Original Bill: Under the original bill, employee noncompetition agreements entered into after December 31, 2005 were null and void. Violation of this section made employers liable for economic damages suffered by the

employee as a result of the violation, and for reasonable attorney fees and court costs related to the violation. This violation language has been removed.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: Noncompete agreements are unfair and impacts where you work. In the 80's when there was local ownership of television stations, noncompete clauses made sense. Now, the person is less important than the content so noncompete agreements are no longer justifiable. Employers want to protect their investments, but what about the companies who want to hire talent who was fired or laid off yet is still subject to the noncompete agreement.

Testimony Against: This is legislation in search of a problem. Operations invest money into their employees, so noncompete agreements exist to protect the investment, not to be punitive. Companies still hire employees subject to other noncompete agreements, and wait for the agreement to expire before putting the talent on-air.

Who Testified: PRO: Steve Krueger, AFTRA; Tony Ventrelh, 710 Kiro Radio; John Sandifer.

CON: Mark Allen, WA State Association of Broadcasters; Roger Nelson, KXLU Broadcast Group; and Becky Bogard, WA State Association of Broadcasters.