

1 5526-S AAS 3/13/91

2 **SSB 5526** - S AMD
3 By Senator Bauer

4 Adopted 3/15/91 - Voice Vote

5 Strike everything after the enacting clause and insert the
6 following:

7 "NEW SECTION. **Sec. I.** The legislature declares that it is
8 a policy of the state of Washington that workers receive
9 consideration for entering into employee noncompetition agreements
10 that affect their future working and business activities."

11 "NEW SECTION. **Sec. II.** Unless the context clearly
12 requires otherwise, the definitions in this section apply to
13 sections 1 through 3 of this act.

14 (1) "Employee" has the meaning of "worker" as defined in RCW
15 51.08.180, and also includes businesses and professionals regulated
16 in Title 18 RCW, except as provided under RCW 51.08.180.

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

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

23 "NEW SECTION. **Sec. III.** (1) Employee noncompetition

1 agreements entered into in the state of Washington after December
2 31, 1991, are void and unenforceable by any court of this state
3 unless:

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

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

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

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

13 (3) Subsection (1) of this section applies only to employee
14 noncompetition agreements made in the context of an employment
15 relationship or contract."

16 "NEW SECTION. **Sec. IV.** Nothing in sections 1 through 3
17 of this act restricts the right of a person to protect trade
18 secrets or other proprietary information by lawful means in equity
19 or under applicable law."

20 "NEW SECTION. **Sec. V.** The enactment of sections 1 through
21 3 of this act does not have the effect of terminating, or in any
22 way modifying, any liability that is already in existence on the
23 effective date of this act."

