

SENATE BILL REPORT

SB 5526

AS REPORTED BY COMMITTEE ON COMMERCE & LABOR, MARCH 6, 1991

Brief Description: Governing employee noncompetition clauses.

SPONSORS: Senators Bauer, Newhouse, Moore, Nelson and Johnson.

SENATE COMMITTEE ON COMMERCE & LABOR

Majority Report: That Substitute Senate Bill No. 5526 be substituted therefor, and the substitute bill do pass.

Signed by Senators Matson, Chairman; Anderson, Vice Chairman; McMullen, Moore, and Murray.

Staff: Forrest Bathurst (786-7429)

Hearing Dates: February 26, 1991; March 6, 1991

BACKGROUND:

Job applicants are often asked to sign noncompetition contracts with potential employers as a precondition for being hired.

Workers entering into noncompetition agreements have argued in the past that they did not fully understand how their future working and business activities would be affected by the contracts.

SUMMARY:

Employee noncompetition agreements entered into after July 1, 1991, are void and unenforceable by any court of this state unless:

- (a) The agreement is entered into on the initial employment of the employee by the employer; or
- (b) The agreement is entered into on subsequent bona fide advancement of the employee with the employer; and
- (c) The agreement is fair and reasonable under prior decisions of the courts of this state.

An employer shall print, before the text of the employee noncompetition agreement, the following language:

"This agreement includes provisions that restrict your future right to engage in certain employment or business activities in some or all of the state of Washington. Before signing this agreement you are advised and encouraged to seek competent legal counsel."

Nothing in this bill restricts the right of a person to protect trade secrets or other proprietary information by lawful means.

EFFECT OF PROPOSED SUBSTITUTE:

The definition of employee includes the businesses and professions contained in Title 18 RCW in addition to having the meaning of "worker" as defined in RCW 51.08.180.

Appropriation: none

Revenue: none

Fiscal Note: none requested

TESTIMONY FOR:

The business community does not oppose the bill.

TESTIMONY AGAINST: None

TESTIFIED: PRO: Clif Finch, Association of Washington Business;
Gary Smith, Independent Business Association