

# HOUSE BILL ANALYSIS

## HB 1329

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

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**Sponsors:** Keiser and Dunn

**Hearing:** February 4, 1999

### Brief Summary of Bill

Beginning in 2000, noncompetition clauses entered into by an employer in the broadcast industry are void.

### BACKGROUND:

Noncompetition clauses are provisions within an employment contract that restrict an employee from competing with his/her employer. Some noncompetition clauses restrict an employee from engaging in outside business activity while in the employ of the employer. Most noncompetition clauses, however, restrict the employee from performing business services for the employer's clients after leaving employment.

Generally, Washington courts will enforce noncompetition clauses *if reasonable*. There are three factors courts consider when deciding if a clause is reasonable:

1. Whether restraining the employee from performing services is necessary for the protection of the business or goodwill of the employer.
1. Whether the clause harms the employee more than is reasonably necessary to secure the employer's business or goodwill.
1. Whether the loss of the employee's services and skills injures the public to a degree warranting nonenforcement of the clause.

Courts will also look at the relative bargaining power of the employee and employer upon entering the employment relationship, and the motives of both when terminating the

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relationship.

**SUMMARY OF BILL:**

Beginning in 2000, non-competition clauses are void and unenforceable in the broadcast industry. Broadcast employers enforcing non-competition clauses are liable for the damages suffered by their employees and for all attorney fees and costs.

Employers may restrict the disclosure of trade secrets by employees and prohibit competition by employees while they are retained by the employer.

**RULES AUTHORITY:** The bill does not contain provisions addressing the rule making powers of an agency.

**FISCAL NOTE:** Not requested.

**EFFECTIVE DATE:** Ninety days after adjournment of a session in which bill is passed.