

---

HOUSE BILL 1577

---

State of Washington

64th Legislature

2015 Regular Session

By Representatives Manweller, Stanford, Sells, Bergquist, Reykdal,  
and Ormsby

Read first time 01/23/15. Referred to Committee on Labor.

1 AN ACT Relating to employment noncompetition agreements; adding a  
2 new section to chapter 49.44 RCW; and creating a new section.

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

4 NEW SECTION. **Sec. 1.** The legislature recognizes that  
5 noncompetition agreements can be an effective means to protect an  
6 employer's legitimate business interests. Still, the legislature  
7 finds that noncompetition agreements must be reasonable when  
8 considering the nature of the particular employment situation.  
9 Therefore, while the legislature recognizes that common-law tests  
10 have been developed to determine whether an agreement is reasonable  
11 or unenforceable, the legislature intends to make noncompetition  
12 agreements for low-wage positions unenforceable and create a  
13 presumption that a restriction period of more than six months is  
14 unreasonable.

15 NEW SECTION. **Sec. 2.** A new section is added to chapter 49.44  
16 RCW to read as follows:

17 (1) A noncompetition agreement between an employer and employee  
18 is void and unenforceable if the employee:

1 (a) Is entitled to overtime compensation under RCW 49.46.130 or  
2 section 207 of the fair labor standards act of 1938 (29 U.S.C. Sec.  
3 207);

4 (b) Earns thirty-nine thousand five hundred dollars per year or  
5 less in gross wages;

6 (c) Is restricted from competing for an unreasonable length of  
7 time. A rebuttable presumption is created that an agreement not to  
8 compete for six months or longer is unreasonable; or

9 (d) Is terminated without just cause or laid off, unless the  
10 noncompetition agreement is part of a severance agreement.

11 (2) On September 30, 2016, and on each successive September 30th,  
12 the department of labor and industries shall calculate an adjusted  
13 amount for subsection (1)(b) of this section by using the consumer  
14 price index for urban wage earners and clerical workers, CPI-W, or a  
15 successor index, for the twelve months prior to each September 1st as  
16 calculated by the United States department of labor. The adjusted  
17 amount shall be calculated to the nearest dollar and takes effect on  
18 the following January 1st.

19 (3) In any cause of action by an employer to enforce a  
20 noncompetition agreement, to prevail the employer must prove by a  
21 preponderance of the evidence that the employer suffered actual harm.

22 (4) For purposes of this section:

23 (a) "Employee" means an employee of an employer.

24 (b) "Employer" means any person, firm, corporation, partnership,  
25 business trust, legal representative, or other entity which engages  
26 in any business, industry, profession, or activity in this state and  
27 employs one or more employees, and includes the state, counties,  
28 cities, and all municipal corporations, public corporations,  
29 political subdivisions of the state, and charitable organizations.

30 (c) "Noncompetition agreement" means an agreement between an  
31 employer and an employee that is specifically designed to impede the  
32 ability of an employee to compete with an employer upon the  
33 termination of the employment relationship.

34 (5) This section applies to noncompetition agreements entered  
35 into on or after the effective date of this section.

--- END ---