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**SENATE BILL 5756**

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**State of Washington 65th Legislature 2017 Regular Session**

**By** Senators Pearson, Frockt, Hasegawa, and Hunt

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

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

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

(1) A noncompetition agreement between an employer and an employee is void and unenforceable if the employee's compensation, excluding benefits, is less than:

(a) Fifty-five thousand dollars per year in 2017; and

(b) Beginning January 1, 2018, and each January 1st thereafter, the amount provided in (a) of this subsection adjusted for inflation as provided in subsection (3) of this section.

(2) If an employer enforces or attempts to enforce a void noncompetition agreement, the employee may recover from the employer the actual damages, together with statutory damages of five thousand dollars and reasonable attorneys' fees.

(3) Beginning January 1, 2018, the amount provided in subsection (1)(a) of this section shall be adjusted for inflation every year based upon changes in the consumer price index during that time period. As used in this subsection, "consumer price index" means the consumer price index compiled by the bureau of labor statistics, United States department of labor for the state of Washington. If the bureau of labor statistics develops more than one consumer price index for areas within the state, the index covering the greatest number of people, covering areas exclusively within the boundaries of the state, and including all items shall be used.

(4) For purposes of this section:

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

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

(c) "Noncompetition agreement" means an agreement between: (i) An employer and an employee that is specifically designed to impede the ability of an employee to compete with the employer upon the termination of the employment relationship; or (ii) a hiring entity and an independent contractor that is specifically designed to impede the ability of an independent contractor to compete with the hiring entity upon termination of the relationship with the hiring entity. "Noncompetition agreement" also means an agreement that restricts an employee or independent contractor from performing: (A) Any work for another employer or entity for a specified period of time; (B) any work in a specified geographical area; or (C) work for another employer or entity that is similar to such employee's or independent contractor's work for the employer or entity included as a party to the agreement.

NEW SECTION. **Sec.**  This act applies to agreements entered into on or after the effective date of this section.

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