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**Labor & Workplace Standards  
Committee**

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**HB 1155**

**Brief Description:** Prohibiting noncompetition agreements and clarifying nonsolicitation agreements.

**Sponsors:** Representatives Berry, Walen, Ramel, Reed, Ryu, Alvarado, Mena, Macri, Farivar, Fosse, Simmons, Peterson, Goodman, Pollet, Kloba, Ormsby, Salahuddin and Hill.

**Brief Summary of Bill**

- Makes any noncompetition covenant void and unenforceable, regardless of when the parties entered into the covenant.

**Hearing Date:** 1/15/25

**Staff:** Kelly Leonard (786-7147).

**Background:**

Status of Noncompetition Covenants.

A "noncompetition covenant," also referred to as a noncompetition agreement or noncompete agreement, is a written or oral agreement by which an employee or independent contractor is prohibited or restrained from engaging in a lawful profession, trade, or business of any kind. It includes an agreement that directly or indirectly prohibits the acceptance or transaction of business with a customer. It does not include a nonsolicitation agreement, confidentiality agreement, or covenant involving the purchase or sale of an interest representing 1 percent or more of a business.

A "nonsolicitation" agreement is an agreement that prohibits an employee, upon termination of

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employment, from soliciting other employees to leave the employer or from soliciting customers to cease or reduce doing business with the employer.

State law imposes restrictions and limitations on the enforceability of noncompetition covenants, as follows:

- *Employees.* A noncompetition covenant is void and unenforceable unless the employer complies with certain restrictions and the employee's earnings exceed a specified amount adjusted annually for inflation by the Department of Labor and Industries (L&I), which is currently \$123,394.17.
- *Broadcasting Employees.* For certain employment relationships in the broadcasting industry, any applicable noncompetition covenant is void and unenforceable if the employee is terminated without just cause or laid off by action of the employer.
- *Independent Contractors.* A noncompetition covenant is void and unenforceable against an independent contractor unless the independent contractor's earnings exceed a specified amount adjusted annually for inflation by L&I, which is currently \$308,485.43. The duration of a noncompetition covenant between a performer and a performance space, or a third party scheduling the performer for a performance space, must not exceed three calendar days.
- *Duration Exceeding 18 Months.* A court or arbitrator must presume that any noncompetition covenant with a duration exceeding 18 months after termination of employment is unreasonable and unenforceable. A party seeking enforcement may rebut the presumption by proving by clear and convincing evidence that a duration longer than 18 months is necessary to protect the party's business or goodwill.

Any provision in a noncompetition covenant signed by an employee or independent contractor who is Washington-based is void and unenforceable:

- if the covenant requires the employee or independent contractor to adjudicate a noncompetition covenant outside of Washington;
- if it allows or requires the application of choice of law principles or the substantive law of any jurisdiction other than Washington; or
- to the extent it deprives the employee or independent contractor of the protections or benefits of the state laws restricting noncompetition covenants.

### Moonlighting and Franchisors.

An employer may not restrict an employee who is earning less than twice the minimum wage from having an additional job, supplementing their income by working for the employer, working as an independent contractor, or being self-employed, with some exceptions.

State law prohibits franchisors from restricting franchisees from soliciting or hiring any employee of the franchisor or a franchisee of the same franchisor.

### Enforcement.

The Attorney General may enforce the restrictions against noncompetition covenants and moonlighting, as well as the provisions applicable to franchisors.

Any person aggrieved by a noncompetition covenant may bring a cause of action for damages and attorneys' fees. A cause of action may not be brought regarding a noncompetition covenant signed prior to January 1, 2020, if the noncompetition covenant is not being enforced or explicitly leveraged.

### **Summary of Bill:**

The definition of "noncompetition covenant" is expanded by specifying that it also includes:

- any provision that threatens, demands, requires, or otherwise effectuates that an individual return, repay, or forfeit any right, benefit, or compensation, as a consequence of the individual engaging in a lawful profession, trade, or business of any kind; and
- agreements between performers and performance spaces or third party schedulers.

"Nonsolicitation agreement" specifically does not include an agreement directly or indirectly prohibiting the acceptance or transaction of business with a customer.

### Status of Noncompetition Covenants.

All noncompetition covenants are void and enforceable, regardless of when the parties entered into the covenant.

By October 1, 2025, employers must provide current and former employees and independent contractors, who are subject to a noncompetition agreement, a written notice stating that the agreement is void and unenforceable.

An employer may not: enforce or threaten to enforce a noncompetition agreement against an employee or worker; represent that an employee or worker is subject to a prohibited agreement; or enter into or attempt to enter into an agreement with an employee or worker that is prohibited.

### Enforcement.

Any person aggrieved by any violation of the provisions governing noncompetition covenants, moonlighting, or franchisors may bring a cause of action for damages and attorneys' fees.

The restrictions in the bill apply to all proceedings commenced on or after the effective date of the bill. A cause of action may not be brought based on the restrictions prior to the effective date of the bill. Legal proceedings commenced before the effective date of the bill are governed by the statutes as amended prior to the effective date of the bill.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.