

STAND. COM. REP. NO. 766

Honolulu, Hawaii

**MAR 06 2015**

RE: S.B. No. 1279  
S.D. 2

Honorable Donna Mercado Kim  
President of the Senate  
Twenty-Eighth State Legislature  
Regular Session of 2015  
State of Hawaii

Madam:

Your Committee on Judiciary and Labor, to which was referred  
S.B. No. 1279, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO EMPLOYMENT AGREEMENTS,"

begs leave to report as follows:

The purpose and intent of this measure is to prohibit  
noncompete agreements and restrictive covenants that forbid post-  
employment competition of employees of a technology business.

Your Committee received testimony in support of this measure  
from six individuals.

Your Committee finds that noncompete clauses are designed to  
protect employers by prohibiting former employees from freely  
sharing with competitors the confidential information of a former  
employer's operations, customer or client lists, business  
practices, upcoming products, and market plans. Inclusion of  
these clauses encourages companies to hire more employees because  
employers are provided protection to hire, contract, and otherwise  
operate a business without the fear that confidential business  
information and knowledge will be passed on to a competitor  
without any limits or consequences. Protecting intellectual  
property is vital to the continued growth of Hawaii's innovation  
economy.

Your Committee is concerned that the definition of  
"technology business" is not clear enough to provide employers and  
employees with meaningful advanced notice of whether the company



in question is subject to this new statutory prohibition. In particular the term "revenue" could present different interpretations and is not defined with respect to any temporal measurement relative to the time of employment. Your Committee encourages the lead subject matter committees to examine these issues further as this measure moves through the legislative process.

Your Committee has amended this measure by:

- (1) Deleting language that would have applied to noncompete and nonsolicit clauses entered into after June 30, 2015, and all amendments that add or amend noncompete and nonsolicit clauses in agreements created prior to July 1, 2015;
- (2) Inserting an effective date of January 7, 2059, to encourage further discussion; and
- (3) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Judiciary and Labor that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 1279, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1279, S.D. 2.

Respectfully submitted on  
behalf of the members of the  
Committee on Judiciary and  
Labor,

  
GILBERT S.C. KEITH-AGARAN, Chair



The Senate  
 Twenty-Eighth Legislature  
 State of Hawai'i

**Record of Votes**  
**Committee on Judiciary and Labor**  
**JDL**

Bill / Resolution No.:*	Committee Referral:	Date:		
SB1279 SDI	EDT/CPN, JDL	3/4/15		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is:				
<input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
KEITH-AGARAN, Gilbert S.C. (C)	✓			
SHIMABUKURO, Maile S.L. (VC)	✓			
ESPERO, Will	✓			
GABBARD, Mike				✓
IHARA, Jr., Les	✓			
THIELEN, Laura H.				✓
SLOM, Sam				✓
<b>TOTAL</b>	4			3
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature:				
<b>Distribution:</b> Original     Yellow     Pink     Goldenrod File with Committee Report     Clerk's Office     Drafting Agency     Committee File Copy				

\*Only one measure per Record of Votes