

SB355

Measure Title: RELATING TO RESTRAINTS OF TRADE.

Report Title: Restrictive Covenants or Agreements; Covenants not to Compete; Employees and Employers

Description: Prohibits post-employment restrictive covenants or agreements executed by an employee or agent after the commencement of employment as a condition of employment or continued employment.

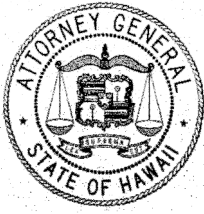
Companion:

Package: None

Current Referral: CPN, JDL

Introducer(s): GABBARD, ESPERO, Green, Harimoto, Keith-Agaran, Shimabukuro

<u>Sort by Date</u>		Status Text
1/23/2015	S	Introduced.
1/23/2015	S	Passed First Reading.
1/26/2015	S	Referred to CPN, JDL.
1/30/2015	S	The committee(s) on CPN has scheduled a public hearing on 02-05-15 9:00AM in conference room 229.



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-EIGHTH LEGISLATURE, 2015**

ON THE FOLLOWING MEASURE:

S.B. NO. 355, RELATING TO RESTRAINTS OF TRADE.

BEFORE THE:

SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

DATE: Thursday, February 5, 2015 **TIME:** 9:00 a.m.

LOCATION: State Capitol, Room 229

TESTIFIER(S): RUSSELL A. SUZUKI, Attorney General, or
RODNEY I. KIMURA, Deputy Attorney General

Chair Baker and Members of the Committee:

The Attorney General opposes this bill.

Section 480-4(c), Hawaii Revised Statutes, sets forth a non-exclusive list of ancillary restrictive post employment covenants and agreements that are lawful unless the effect is not reasonable.

This bill adds a new subsection that has the effect of prohibiting any covenant or agreement signed by an employee after the start of employment, notwithstanding those listed in subsection (c) or which could be found reasonable by a court. The exception to the prohibition would be covenants and agreements signed by the employee or agent before the start of employment or those not imposed as a condition of employment or continued employment.

This bill may have unintended consequences. We note that the proposed subsection will prohibit covenants or agreements not characterized as "restrictive," those which may be sought by an employee or are beneficial to an employee, and even those imposed to implement legal requirements such as mandates on certification and testing.

Thank you for the opportunity to testify on this bill.