A BILL FOR AN ACT

RELATING TO FAIR EMPLOYMENT PRACTICES.

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

1   SECTION 1. The legislature finds that the use of

2 noncompete agreements restricting employees from post-employment

3 work in a specific geographical area for a specific period of

4 time is becoming more common. Approximately one-fifth of United

5 States workers, or thirty million individuals, are covered by a

6 noncompete agreement. Federal and state lawmakers, state

7 attorneys general, and the Obama administration have expressed

8 concern about the negative effects of unfair noncompete

9 agreements and the spread of noncompete agreements to low-income

10 workers in businesses like hair salons, warehouse shipping, and

11 fast food restaurants. Where the employee is unlikely to have

12 obtained trade secrets or advanced skills training, a noncompete

13 agreement designed to protect the employer's intellectual

14 property is unnecessarily punitive. Noncompete agreements can

15 reduce job mobility, stifle innovation, and even lead to

16 unemployment if a worker is unable to find a new job that does

17 not violate a former employer's noncompete agreement.

1   The legislature further finds that policymakers are

2   exploring ways to address unreasonable noncompete agreements.

3   At least two states, Illinois and Oregon, have recently enacted

4   laws to prohibit noncompete agreements for certain low wage

5   workers, and three other states are currently considering

6   similar legislation. In a few other states, such as California,

7   North Dakota, and Oklahoma, noncompete agreements are generally

8   unenforceable.

9   The purpose of this Act is to prohibit noncompete

10   agreements for low wage workers.

11   SECTION 2. Section 480-4, Hawaii Revised Statutes, is

12   amended by amending subsection (d) to read as follows:

13   "(d) Except as provided in subsection (c)(4), it shall be

14   prohibited to include a noncompete clause or a nonsolicit clause

15   in any employment contract relating to [an]:

16   (1) An employee of a technology business[.]; or

17   (2) An employee whose earnings do not exceed the greater

18   of the hourly rate equal to the minimum wage required

19   by applicable federal or state law or $15 per hour.

20   The clause shall be void and of no force and effect.

21   As used in this subsection:

1   "Information technology development" means the design,

2   integration, deployment, or support services for software.

3   "Noncompete clause" means a clause in an employment

4   contract that prohibits an employee from working in a specific

5   geographic area for a specific period of time after leaving

6   employment with the employer.

7   "Nonsolicit clause" means a clause in an employment

8   contract that prohibits an employee from soliciting employees of

9   the employer after leaving employment with the employer.

10   "Software development" means the creation of coded computer

11   instructions.

12   "Technology business" means a trade or business that

13   derives the majority of its gross income from the sale or

14   license of products or services resulting from its software

15   development or information technology development, or both. A

16   "technology business" excludes any trade or business that is

17   considered by standard practice as part of the broadcast

18   industry or any telecommunications carrier, as defined in

19   section 269-1, that holds a franchise or charter enacted or

20   granted by the legislative or executive authority of the State

21   or its predecessor governments."

S.B. NO. 328

1   SECTION 3.   Statutory material to be repealed is bracketed

2   and stricken.   New statutory material is underscored.

3   SECTION 4.   This Act shall take effect upon its approval.

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                        INTRODUCED BY: _____

Report Title:
Noncompete Agreements; Low Wage Workers

Description:
Prohibits noncompete agreements for low wage workers whose earnings do not exceed the greater of the hourly rate equal to the minimum wage required by applicable federal or state law or $15 per hour.

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