

JAN 20 2023

A BILL FOR AN ACT

RELATING TO NON-COMPETE CLAUSES.

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

1 SECTION 1. The legislature finds that non-compete clauses
2 in employment contracts pose multiple disadvantages for
3 employers and employees alike. Employees that have signed a
4 non-compete clause are prevented from changing jobs to other
5 employers in the same field. This hinders upward mobility,
6 especially for low-wage earners, and subjects them to poor
7 working conditions as they are unable to advocate for or move to
8 a better job. Potential employees may also need to seek
9 expensive legal assistance when signing a non-compete contract.

10 The legislature further finds that employers who require a
11 non-compete clause in an employment contract can be less
12 attractive to potential new employees due to the clause's
13 limitation on future job prospects. Employers also incur legal
14 expenses for enforcing non-compete clauses.

15 The legislature also finds that prohibiting non-compete
16 clauses could boost wages and narrow pay gaps experienced by
17 minorities and women. Prohibiting non-compete clauses also



1 encourages employers to focus on employee retention and
2 satisfaction. A 2019 study from the Ross School of Business and
3 the United States Census Bureau Center for Economic Studies
4 found that Hawaii's 2015 prohibition on non-compete clauses for
5 technology workers increased mobility by eleven per cent and
6 raised new-hire wages by four per cent.

7 The purpose of this Act is to void existing and prohibit
8 future non-compete clauses for employees of a restaurant, retail
9 store, newspaper, magazine, news agency, press association, wire
10 service, or radio or television transmission station or network.

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 [~~non-compete~~] non-compete clause or a
15 [~~non-solicit~~] non-solicit clause in any employment contract
16 relating to an employee of a technology business[-], restaurant,
17 retail store, newspaper, magazine, news agency, press
18 association, wire service, or radio or television transmission
19 station or network. The clause shall be void and of no force
20 and effect.

21 As used in this subsection:



1 "Information technology development" means the design,
2 integration, deployment, or support services for software.

3 [~~"Non-competit~~] "Non-competit clause" means a clause in an
4 employment contract that prohibits an employee from working in a
5 specific geographic area for a specific period of time after
6 leaving employment with the employer.

7 [~~"Non-solicit~~] "Non-solicit clause" means a clause in an
8 employment contract that prohibits an employee from soliciting
9 employees of the employer after leaving employment with the
10 employer.

11 "Restaurant" shall have the same meaning as in
12 section 321-30.3

13 "Software development" means the creation of coded computer
14 instructions.

15 "Technology business" means a trade or business that
16 derives the majority of its gross income from the sale or
17 license of products or services resulting from its software
18 development or information technology development, or both. A
19 "technology business" excludes any trade or business that is
20 considered by standard practice as part of the broadcast
21 industry or any telecommunications carrier, as defined in



1 section 269-1, that holds a franchise or charter enacted or
2 granted by the legislative or executive authority of the State
3 or its predecessor governments."

4 SECTION 3. This Act does not affect rights and duties that
5 matured, penalties that were incurred, and proceedings that were
6 begun before its effective date.

7 SECTION 4. Statutory material to be repealed is bracketed
8 and stricken. New statutory material is underscored.

9 SECTION 5. This Act shall take effect upon its approval.

10

INTRODUCED BY: 



S.B. NO. 1054

Report Title:

Employment Covenants or Agreements; Non-compete Clause; Labor;
Employment Contracts; Non-solicit Clause

Description:

Prohibits non-compete and non-solicit clauses in employment contracts relating to employees of a restaurant, retail store, newspaper, magazine, news agency, press association, wire service, or radio or television transmission station or network.

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