



General Assembly

Substitute Bill No. 6913

January Session, 2019



AN ACT CONCERNING COVENANTS NOT TO COMPETE.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective from passage*) (a) For purposes of this
2 section:

3 (1) "Base salary and benefits" means (A) wages, as defined in section
4 31-71a of the general statutes, earned over the course of the prior
5 calendar year, without consideration of any overtime or bonus
6 compensation, and (B) health insurance benefits and other fringe
7 benefits received by an employee over the course of the prior calendar
8 year;

9 (2) "Employee" includes any person suffered or permitted to work
10 by an employer;

11 (3) "Employer" has the same meaning as provided in section 31-71a
12 of the general statutes;

13 (4) "Covenant not to compete" means a contract, provision or
14 agreement that restrains an employee from engaging in any lawful
15 profession, occupation, trade, calling or business of any kind in any
16 geographic area of the state for any period of time after the termination
17 of employment;

18 (5) "Separation agreement" means an agreement accompanying the
19 termination or separation of employment without cause in which the
20 employee releases claims or potential claims against the employer.

21 (b) Except as provided in section 31-50a or 31-50b of the general
22 statutes, an employer may obtain from an employee a covenant not to
23 compete only if it (1) does not restrict the employee's competitive
24 activities for a period of more than one year following the termination
25 or separation of the employee; (2) is necessary to protect a legitimate
26 business interest of the employer; (3) is reasonably limited in time,
27 geographic scope and employment restrictions as necessary to protect
28 such business interest; (4) is consistent with this section, other law of
29 this state and public policy; and (5) is entered into by an employee
30 who receives compensation at an hourly rate of more than twice the
31 minimum fair wage as defined in section 31-58 of the general statutes.
32 The party seeking to enforce a covenant not to compete shall have the
33 burden of proof in any proceeding.

34 (c) A covenant not to compete that is entered into, amended,
35 extended or renewed on or after July 1, 2019, shall not be enforceable
36 against any employee if (1) such covenant was not made in
37 anticipation of a sale of the goodwill of a business or all of the seller's
38 ownership interest in a business, or as part of a partnership or
39 ownership agreement and such contract or agreement expires and is
40 not renewed, unless, prior to such expiration, the employer makes a
41 bona fide offer to renew the contract on the same or similar terms and
42 conditions; (2) the employment or contractual relationship is
43 terminated by the employer; or (3) the employment or contractual
44 relationship is terminated by the employee for good cause attributable
45 to the employer.

46 (d) A covenant not to compete that meets the requirements of
47 subsections (b), (c) and (e) of this section shall not be invalid under this
48 section based upon its duration of more than one year, but not longer
49 than two years, following the termination of employment if it is a part
50 of an employment agreement or a separation agreement under which

51 the employer agrees to continue to compensate the employee with the
52 employee's base salary and benefits for a period of not less than one
53 year following the termination of employment.

54 (e) Each covenant not to compete that is entered into, amended,
55 extended or renewed on or after July 1, 2019, shall (1) be provided to
56 the employee not less than ten business days prior to the date of
57 signing; (2) expressly state that the employee has the right to consult
58 with counsel prior to signing; and (3) be signed by the employee and
59 the employer.

60 (f) The remaining provisions of any contract or agreement that
61 includes a covenant not to compete that is rendered void and
62 unenforceable, in whole or in part, under the provisions of this section
63 shall remain in full force and effect, including provisions that require
64 the payment of damages resulting from any injury suffered by reason
65 of termination or separation of employment.

66 (g) The provisions of this section shall apply to agreements or
67 covenants entered into, renewed or extended on or after June 30, 2019.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	New section

Statement of Legislative Commissioners:

Subsecs. (a)(1) and (b) to (f), inclusive, were rewritten for clarity and consistency, and Subsec. (a)(3) was rewritten to be consistent with existing statutory language.

LAB Joint Favorable Subst. -LCO