Testimony of Eric Gjede
Vice President of Public Policy, CBIA
Before the Labor & Public Employees Committee
Hartford, CT
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Testifying on
HB 6594: AN ACT CONCERNING NONCOMPETE AGREEMENTS

Good afternoon, Senator Kushner, Representative Sanchez, Senator Sampson, Representative Ackert and members of the Labor & Public Employees Committee. My name is Eric Gjede and I am vice president of public policy for CBIA, the Connecticut Business & Industry Association. CBIA is Connecticut's largest business organization, with thousands of member companies, small and large, representing a diverse range of industries from across the state. Ninety-five percent of our member companies are small businesses with less than one hundred employees.

CBIA opposes HB 6594

Non-compete agreements provide protection for employers from the loss of trade secrets, emerging technologies, client lists, and other confidential and proprietary information. These agreements are heavily restricted by the courts to balance the interests of employers and employees while ensuring appropriateness of scope, geography, and duration.

We can all agree there are circumstances where such agreements are inappropriate. However, the new restrictions proposed in HB 6594 remove the protections noncompete agreements provide in circumstances where they are needed most.

HB 6594 invalidates **all** noncompete agreements on July 1, 2023, if any of the following apply:

- The employee is a non-exempt (hourly) employee,
- The employee is an exempt employee (salaried) who earns less than three times the minimum wage ($93,600 per year for a full-time employee at $15 an hour), or
- The independent contractor earns less than five times the minimum wage ($75 per hour at $15 hour)

Using a multiple of the minimum wage as a threshold to invalidate these agreements is problematic. For one, the minimum wage is indexed, resulting in a moving target whereby an agreement may be invalidated over time due to wage increases. This threshold ignores the needs of many industries providing good, middle-class jobs that use geographically and durationally limited noncompete agreements, such as hair care professionals, golf course pros, and even members of the clergy. This threshold also invalidates non-compete agreements for very highly skilled individuals who have access to sensitive information, including design engineers, skilled tradespeople, and software developers.

It is unclear why HB 6594 seeks to invalidate agreements between a business and its independent contractors.

HB 6594 also renders void any noncompete agreement where employee subjectively believes they have good cause to end the employment relationship that is attributable to the employer. Thus, an employee that misguidedly believes they had good cause to end an employment relationship could cause irreparable economic harm to an employer before a court could invalidate their claim.

Noncompete agreements, and to a lesser extent, exclusivity agreements, provide critical protections for many industries. These agreements are already highly restricted by the courts to protect employees and are critical to preventing economic harm caused by the loss of a business' most important assets.

We urge the committee to take no action on HB 6594.