

CHAPTER 264
2019 -- S 0698 SUBSTITUTE A
Enacted 07/15/2019

A N A C T
RELATING TO LABOR AND LABOR RELATIONS -- RHODE ISLAND NONCOMPETITION
AGREEMENT ACT

Introduced By: Senator Maryellen Goodwin
Date Introduced: March 21, 2019

It is enacted by the General Assembly as follows:

SECTION 1. Title 28 of the General Laws entitled "LABOR AND LABOR RELATIONS" is hereby amended by adding thereto the following chapter:

CHAPTER 58

RHODE ISLAND NONCOMPETITION AGREEMENT ACT

28-58-1. Short title.

This chapter shall be known and may be cited as the "Rhode Island Noncompetition Agreement Act."

28-58-2. Definitions.

As used in this chapter:

(1) "Business entity" means any person as defined in § 43-3-6 and includes a corporation, business trust, estate trust, partnership, association, joint venture, government, governmental subdivision or agency, or any other legal or commercial entity.

(2) "Earnings" means wages or compensation paid to an employee in the first forty (40) hours of work in a given week, not inclusive of hours paid at an overtime, Sunday, or holiday rate.

(3) "Employee" means an individual who works for hire, including an individual employed in a supervisory, managerial, or confidential position, but shall not include an independent contractor.

(4) "Employer" means any person, business entity, partnership, individual proprietorship, joint venture, firm, company, or other similar legal entity that employs one or more employees, and shall include the state and its instrumentalities and political subdivisions, public corporations, and charitable organizations.

(5) "Forfeiture agreement" means an agreement that imposes adverse financial consequences on a former employee as a result of the termination of an employment relationship, regardless of whether the employee engaged in competitive activities, following cessation of the employment relationship. Forfeiture agreements do not include forfeiture for competition agreements.

(6) "Forfeiture for competition agreement" means an agreement that by its terms or through the manner in which it is enforced, imposes adverse financial consequences on a former employee as a result of the termination of an employment relationship if the employee engages in competitive activities.

(7) "Low-wage employee" means an employee whose average annual earnings, as defined in § 28-58-2(2) subsection (2), are not more than two hundred fifty percent (250%) of the federal poverty level for individuals as established by the United States Department of Health and Human Services federal poverty guidelines.

(8) "Noncompetition agreement" means an agreement between an employer and an employee, or otherwise arising out of an existing or anticipated employment relationship, under which the employee or expected employee agrees that he or she will not engage in certain

specified activities competitive with his or her employer, after the employment relationship has ended. Noncompetition agreements include forfeiture for competition agreements, but do not include:

- (i) Covenants not to solicit or hire employees of the employer;
- (ii) Covenants not to solicit or transact business with customers, clients, or vendors of the employer;
- (iii) Noncompetition agreements made in connection with the sale of a business entity or all or substantially all of the operating assets of a business entity or partnership, or otherwise disposing of the ownership interest of a business entity or partnership, or division or subsidiary of any of the foregoing, when the party restricted by the noncompetition agreement is a significant owner of, or member or partner in, the business entity who will receive significant consideration or benefit from the sale or disposal;
- (iv) Noncompetition agreements originating outside of an employment relationship;
- (v) Forfeiture agreements;
- (vi) Nondisclosure or confidentiality agreements;
- (vii) Invention assignment agreements;
- (viii) Noncompetition agreements made in connection with the cessation of or separation from employment if the employee is expressly granted seven (7) business days to rescind acceptance; or
- (ix) Agreements by which an employee agrees to not reapply for employment to the same employer after termination of the employee.

(9) "Trade secret" means information as defined in § 6-41-1.

28-58-3. Enforceability.

(a) A noncompetition agreement shall not be enforceable against the following types of workers:

- (1) An employee who is classified as nonexempt under the Fair Labor Standards Act, 29 U.S.C. 201-219;
- (2) Undergraduate or graduate students that who participate in an internship or otherwise enter a short-term employment relationship with an employer, whether paid or unpaid, while enrolled at an educational institution;
- (3) Employees age eighteen (18) or younger; or
- (4) A low-wage employee.

(b) This section does not render void or unenforceable the remainder of a contract or agreement containing the unenforceable noncompetition agreement, nor does it preclude the imposition of a noncompetition restriction by a court, whether through preliminary or permanent injunctive relief or otherwise, as a remedy for a breach of another agreement or of a statutory or common law duty.

(c) Nothing in this section shall preclude an employer from entering into an agreement with an employee not to share any information, including after the employee is no longer employed by the employer, regarding the employer or the employment that is a trade secret.

SECTION 2. This act shall take effect six (6) months after passage.

=====

LC001774/SUB A

=====

ENTITLED, AN ACT RELATING TO PUBLIC UTILITIES AND CARRIERS -- RHODE ISLAND PUBLIC TRANSIT AUTHORITY (Increases the number of members of the transit authority from eight to nine and makes the mayor of Providence or designee an ex officio member with voting privileges.)

{LC1905/1}

03/21/2019 Introduced, referred to Senate Housing and Municipal Government

03/22/2019 Scheduled for hearing and/or consideration (03/28/2019)

03/28/2019 Committee recommended measure be held for further study

Senate Bill No. 697

BY Ciccone, Metts, Miller, Quezada, Goodwin

ENTITLED, AN ACT RELATING TO COURTS AND CIVIL PROCEDURE--PROCEDURE GENERALLY -- JUDGMENTS, ORDERS, AND DECREES (Provides interest on civil actions be calculated at a rate equal to weekly average one year constant maturity Treasury yield, as published by Board of Governors of Federal Reserve System, for the calendar week preceding the date of the judgment.)

{LC1904/1}

03/21/2019 Introduced, referred to Senate Judiciary

03/22/2019 Scheduled for hearing and/or consideration (03/28/2019)

03/28/2019 Committee recommended measure be held for further study

Senate Bill No. 698 SUB A

Chapter 264

BY Goodwin

ENTITLED, AN ACT RELATING TO LABOR AND LABOR RELATIONS -- RHODE ISLAND NONCOMPETITION AGREEMENT ACT (Creates a comprehensive statutory scheme to address all aspects of noncompetition agreements.)

{LC1774/A/1}

03/21/2019 Introduced, referred to Senate Judiciary

04/19/2019 Scheduled for hearing and/or consideration (04/25/2019)

04/25/2019 Committee recommended measure be held for further study

06/07/2019 Scheduled for consideration (06/11/2019)

06/10/2019 Proposed Substitute

06/11/2019 Committee recommends passage of Sub A

06/11/2019 Placed on Senate Calendar (06/13/2019)

06/13/2019 Senate passed Sub A

06/14/2019 Referred to House Judiciary

06/24/2019 Committee transferred to House Labor

06/24/2019 Scheduled for consideration (06/26/2019)

06/26/2019 Committee recommends passage of Sub A in concurrence

06/26/2019 Placed on House Calendar (06/28/2019)

06/28/2019 House passed Sub A in concurrence

07/11/2019 Transmitted to Governor

07/15/2019 Signed by Governor

Senate Bill No. 699 SUB B