
SUBSTITUTE SENATE BILL 6081

State of Washington

66th Legislature

2020 Regular Session

By Senate Labor & Commerce (originally sponsored by Senators Lias, King, Stanford, Becker, Keiser, Braun, Wellman, and Conway)

1 AN ACT Relating to the calculation of compensation of an employee
2 of a medical school and an affiliated faculty group practice for
3 purposes of a noncompetition agreement; amending RCW 49.62.010;
4 adding a new section to chapter 49.62 RCW; and creating a new
5 section.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 NEW SECTION. **Sec. 1.** The legislature reaffirms that workforce
8 mobility is important to economic growth and development and that
9 agreements limiting competition or hiring may be contracts of
10 adhesion that may be unreasonable as it did originally with passage
11 of Engrossed Substitute House Bill No. 1450 in 2019. In advancing
12 these findings, the legislature must promote equitable application
13 and enforcement of the standards under chapter 49.62 RCW. The
14 legislature also finds that employers should seek to use alternative
15 means where possible to avoid agreements that limit competition or
16 utilize unreasonable contracts of adhesion.

17 **Sec. 2.** RCW 49.62.010 and 2019 c 299 s 2 are each amended to
18 read as follows:

19 The definitions in this section apply throughout this chapter
20 unless the context clearly requires otherwise.

1 (1) "Earnings" means the compensation reflected on box one of the
2 employee's United States internal revenue service form W-2 that is
3 paid to an employee over the prior year, or portion thereof for which
4 the employee was employed, annualized and calculated as of the
5 earlier of the date enforcement of the noncompetition covenant is
6 sought or the date of separation from employment. For employees who
7 receive compensation from both a medical school and an affiliated
8 faculty group practice, when such affiliation was initially
9 established prior to January 1, 2020, "earnings" include the combined
10 compensation from each entity. "Earnings" also means payments
11 reported on internal revenue service form 1099-MISC for independent
12 contractors.

13 (2) "Employee" and "employer" have the same meanings as in RCW
14 49.17.020.

15 (3) "Franchisor" and "franchisee" have the same meanings as in
16 RCW 19.100.010.

17 (4) "Noncompetition covenant" includes every written or oral
18 covenant, agreement, or contract by which an employee or independent
19 contractor is prohibited or restrained from engaging in a lawful
20 profession, trade, or business of any kind. A "noncompetition
21 covenant" does not include: (a) A nonsolicitation agreement; (b) a
22 confidentiality agreement; (c) a covenant prohibiting use or
23 disclosure of trade secrets or inventions; (d) a covenant entered
24 into by a person purchasing or selling the goodwill of a business or
25 otherwise acquiring or disposing of an ownership interest; or (e) a
26 covenant entered into by a franchisee when the franchise sale
27 complies with RCW 19.100.020(1).

28 (5) "Nonsolicitation agreement" means an agreement between an
29 employer and employee that prohibits solicitation by an employee,
30 upon termination of employment: (a) Of any employee of the employer
31 to leave the employer; or (b) of any customer of the employer to
32 cease or reduce the extent to which it is doing business with the
33 employer.

34 (6) "Party seeking enforcement" means the named plaintiff or
35 claimant in a proceeding to enforce a noncompetition covenant or the
36 defendant in an action for declaratory relief.

37 NEW SECTION. **Sec. 3.** A new section is added to chapter 49.62
38 RCW to read as follows:

1 An employer of employees who receive compensation from both a
2 medical school and an affiliated faculty group practice, when such
3 affiliation was initially established prior to January 1, 2020, must
4 report annually to the department of labor and industries the number
5 of employees who are and who are not subject to the standards of this
6 chapter based on the combined compensation from each entity as
7 provided in the definition of "earnings" provided in RCW 49.62.010.
8 This report shall include the medical school department under which
9 these employees perform their work.

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