

OREGON HOUSE'S TAKE ON NONCOMPETES A THREAT TO EMPLOYERS

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The Oregon Legislature is considering several significant changes to noncompetition law. Under current law, a noncompetition agreement is enforceable, assuming it is otherwise reasonable and necessary to protect a legitimate business interest, only if it was signed upon initial employment or a bona fide advancement.

Earlier this year, the Oregon Senate proposed to make noncompetition agreements void unless the terms of the agreement were communicated to the employee at the time of the initial offer of employment. The Senate Bill would also have made noncompetition agreements unenforceable if the employee were terminated without cause. The House Judiciary Committee approved multiple amendments to the Senate bill.

Under the House's changes, a noncompetition agreement is voidable unless the employer "informs the employee in a written employment offer received by the employee at least two weeks before the first day of the employee's employment that a noncompetition agreement is required as a condition of employment" or it is entered into upon a subsequent bona fide advancement. The House Judiciary Committee also decided noncompetition agreements should only be valid for people who are overtime-exempt administrative, executive or professional employees. The Judiciary Committee added that, in order for the agreement to be enforceable, the employee's salary and commission must exceed the median family income. Finally, the amendments would limit all noncompetition agreements to two years, regardless of the specific facts or circumstances that may necessitate a longer period.

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