

2019 -- H 6019

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2019

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A N A C T

RELATING TO LABOR AND LABOR RELATIONS -- RHODE ISLAND  
NONCOMPETITION AGREEMENT ACT

Introduced By: Representative Christopher R. Blazewski

Date Introduced: April 24, 2019

Referred To: House Labor

It is enacted by the General Assembly as follows:

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

3 CHAPTER 58

4 RHODE ISLAND NONCOMPETITION AGREEMENT ACT

5 **28-58-1. Short title.**

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

8 **28-58-2. Definitions.**

9 As used in this chapter:

10 (1) "Business entity" means any person or group of persons performing or engaging in  
11 any activity, enterprise, profession or occupation, whether for-profit or not-for-profit, including,  
12 but not limited to, corporations, limited liability companies, limited partnerships or limited  
13 liability partnerships.

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

17 (3) "Employer" means any person, business entity, partnership, individual proprietorship,  
18 joint venture, firm, company or other similar legal entity that employs one or more employees.

1 and shall include the state and its instrumentalities and political subdivisions, public corporations,  
2 and charitable organizations.

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

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

12 (6) "Low-wage employee" means an employee whose average weekly earnings,  
13 calculated by dividing the employee's earnings during the period of twelve (12) calendar months  
14 immediately preceding the date of termination of employment by fifty-two (52), or the number of  
15 weeks that the employee was actually paid during the fifty-two (52) week period, are less than the  
16 statewide average weekly remuneration as determined pursuant by § 28-33-20.

17 (7) "Noncompetition agreement" means an agreement between an employer and an  
18 employee, or otherwise arising out of an existing or anticipated employment relationship, under  
19 which the employee or expected employee agrees that he or she will not engage in certain  
20 specified activities competitive with his or her employer, after the employment relationship has  
21 ended. Noncompetition agreements include forfeiture for competition agreements, but do not  
22 include:

23 (i) Covenants not to solicit or hire employees of the employer;

24 (ii) Covenants not to solicit or transact business with customers, clients, or vendors of the  
25 employer;

26 (iii) Noncompetition agreements made in connection with the sale of a business entity or  
27 all or substantially all of the operating assets of a business entity or partnership, or otherwise  
28 disposing of the ownership interest of a business entity or partnership, or division or subsidiary of  
29 any of the foregoing, when the party restricted by the noncompetition agreement is a significant  
30 owner of, or member or partner in, the business entity who will receive significant consideration  
31 or benefit from the sale or disposal;

32 (iv) Noncompetition agreements originating outside of an employment relationship;

33 (v) Forfeiture agreements;

34 (vi) Nondisclosure or confidentiality agreements;

- 1           (vii) Invention assignment agreements;  
2           (viii) Noncompetition agreements made in connection with the cessation of or separation  
3 from employment if the employee is expressly granted seven (7) business days to rescind  
4 acceptance; or  
5           (ix) Agreements by which an employee agrees to not reapply for employment to the same  
6 employer after termination of the employee.

7           **28-58-3. Enforceability.**

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

10           (1) An employee who is classified as nonexempt under the Fair Labor Standards Act, 29  
11 U.S.C. 201-219;

12           (2) Undergraduate or graduate students that participate in an internship or otherwise enter  
13 a short-term employment relationship with an employer, whether paid or unpaid, while enrolled  
14 at an educational institution;

15           (3) Employees age eighteen (18) or younger; or

16           (4) A low-wage employee.

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

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

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

A N A C T

RELATING TO LABOR AND LABOR RELATIONS -- RHODE ISLAND  
NONCOMPETITION AGREEMENT ACT

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- 1           This act would create a comprehensive statutory scheme to address all aspects of
- 2 noncompetition agreements.
- 3           This act would take effect six (6) months after passage.

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