
DIGEST

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HB 1037 Original

2022 Regular Session

Landry

Abstract: Provides relative to noncompete contracts or agreements.

Present law provides that any person, including a corporation and the individual shareholders of the corporation, who is employed as an agent, servant, or employee may agree to refrain from carrying on or engaging in a business similar to that of the employer or from soliciting customers of the employer within a specified geographical area. Present law further provides that such an agreement may not exceed a period of two years from the date of termination of employment.

Proposed law changes the provision that states that the noncompete agreement applies to any person and proposed law instead provides that such an agreement may only be made upon or in anticipation of termination of employment for any non-exempt person. Proposed law further provides that any noncompete provision in the agreement must be specifically identified to the employee and then initialed by both the employee and employer.

Proposed law also changes the time limitation for noncompete agreements from two years to one year.

Proposed law otherwise retains present law.

Present law provides that an independent contractor, whose work is performed pursuant to a written contract, may enter into a noncompete agreement for a period not to exceed two years from the date of the last work performed under the written contract.

Proposed law repeals present law.

Present law provides that for the purposes of present law, a person who becomes employed by a competing business, regardless of whether or not that person is an owner or equity interest holder of that competing business, may be deemed to be carrying on or engaging in a business similar to that of the party having a contractual right to prevent that person from competing.

Proposed law repeals present law and instead provides that no employer shall require, request, or attempt to enforce an agreement that includes a noncompete provision for any of the following individuals:

- (1) Any person who is compensated on an hourly basis.

- (2) Any person who is not considered a highly compensated employee as defined by federal law.
- (3) Any person who is employed by an employer who either received incentives from the La. Industrial Ad Valorem Tax Exemption Program (ITEP) or received other annual tax incentives from La. taxpayers.
- (4) Any person who performs manual labor.
- (5) Any person who is terminated by an employer without cause.
- (6) Any person who holds a professional license and either obtained the professional license prior to employment with the employer, obtained the professional license independent of the employment duties with the employer, or paid any expenses related to obtaining his professional license.

Present law provides that an employee, an individual partner in a partnership, a shareholder in a corporation, and an individual member of a limited liability corporation (LLC) may agree to a noncompete agreement enforced by the employer, partnership, corporation, and LLC, respectively, not to exceed a period of two years.

Proposed law requires the aforementioned agreements to be in conjunction with provisions of proposed law that provides an exemption from noncompete agreements for certain individuals. Proposed law otherwise retains present law.

Present law provides that parties to a franchise may agree that the employee, who is employed by a franchisor, shall, during his term of employment with the franchisor, refrain from competing with his employer or any of the franchisees of his employer or carrying on or engaging in any other business similar to the franchise. Present law further provides that the noncompete agreement shall not exceed a period of two years following severance of the employment relationship between the franchisor and the employee.

Proposed law repeals present law.

(Amends R.S. 23:921(C)-(E), (G)(1), (H), and (J)-(L); Repeals R.S. 23:921(F)(1)(c))