



Rep. Melissa Conyears-Ervin

Filed: 5/19/2017

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LRB100 06081 JLS 26665 a

1 AMENDMENT TO SENATE BILL 858

2 AMENDMENT NO. _____. Amend Senate Bill 858 on page 1, by
3 replacing line 4 with the following:

4 "Section 1. Short title. This Act may be cited as the
5 Prohibition of Contracts in Restraint of Trade Act.

6 Section 5. Policy and intent. Current estimates suggest 20%
7 of employees in the United States have restrictions on job
8 movement created by non-compete clauses in their employment
9 contracts.

10 The free movement of labor has the positive effects of:
11 increasing competition in the labor market; increasing wages;
12 improving career satisfaction; developing regional economic
13 clusters; and increasing economic growth through more rapid
14 diffusion of expertise.

15 The public policy and intent of this Act is to allow
16 workers in Illinois maximum freedom to change employers.

1 Section 10. Definitions. In this Act:

2 "Business entity" means a partnership (including a limited
3 partnership or a limited liability partnership), limited
4 liability company (including a series of a limited liability
5 company formed under the laws of a jurisdiction that recognizes
6 such a series), or corporation.

7 "Owner of a business entity" means a partner, in the case
8 of a business entity that is a partnership (including a limited
9 partnership or a limited liability partnership), or a member,
10 in the case of a business entity that is a limited liability
11 company (including a series of a limited liability company
12 formed under the laws of a jurisdiction that recognizes such a
13 series), or an owner of capital stock, in the case of a
14 business entity that is a corporation.

15 "Ownership interest" means a partnership interest, in the
16 case of a business entity that is a partnership (including a
17 limited partnership a limited liability partnership), a
18 membership interest, in the case of a business entity that is a
19 limited liability company (including a series of a limited
20 liability company formed under the laws of a jurisdiction that
21 recognizes such a series), or a capital stockholder, in the
22 case of a business entity that is a corporation.

23 "Subsidiary" means a business entity over which the selling
24 business entity has voting control or from which the selling
25 business entity has a right to receive a majority share of

1 distributions upon dissolution or other liquidation of the
2 business entity (or has both voting control and a right to
3 receive these distributions).

4 Section 15. Certain contracts void. Except as provided in
5 this Act, any contract by which anyone is restrained from
6 engaging in a lawful profession, trade, or business of any kind
7 is to that extent void.

8 Section 20. Sale of business; agreement not to compete. A
9 person who sells the goodwill of a business, an owner of a
10 business entity selling or otherwise disposing of all of his or
11 her ownership interest in the business entity, or an owner of a
12 business entity that sells (1) all or substantially all of its
13 operating assets together with the goodwill of the business
14 entity, (2) all or substantially all of the operating assets of
15 a division or a subsidiary of the business entity together with
16 the goodwill of that division or subsidiary, or (3) all of the
17 ownership interest of any subsidiary may agree with the buyer
18 to refrain from carrying on a similar business within a
19 specified geographic area in which the business so sold, or
20 that of the business entity, division, or subsidiary has been
21 carried on, so long as the buyer, or any person deriving title
22 to the goodwill or ownership interest from the buyer, carries
23 on a like business therein.

1 Section 25. Activities of partners.

2 (a) A partner may, upon or in anticipation of any of the
3 circumstances described in subsection (b), agree that the
4 partner will not carry on a similar business within a specified
5 geographic area where the partnership business has been
6 transacted, so long as any other member of the partnership, or
7 any person deriving title to the business or its goodwill from
8 any such other member of the partnership, carries on a like
9 business therein.

10 (b) Subsection (a) applies to:

- 11 (1) a dissolution of the partnership; or
12 (2) dissociation of the partner from the partnership.

13 Section 30. Activities of members; limited liability
14 companies. A member may, upon or in anticipation of a
15 dissolution of, or the termination of the member's interest in,
16 a limited liability company (including a series of a limited
17 liability company formed under the laws of a jurisdiction
18 recognizing such a series), agree that the member will not
19 carry on a similar business within a specified geographic area
20 where the limited liability company business has been
21 transacted, so long as any other member of the limited
22 liability company, or any person deriving title to the business
23 or its goodwill from any such other member of the limited
24 liability company, carries on a like business therein.

1 Section 35. Protections for trade secrets. Nothing in this
2 Act is intended to supersede the Illinois Trade Secrets Act,
3 nor is this Act intended to interfere with remedies for
4 misappropriation of trade secrets under the Illinois Trade
5 Secrets Act.

6 Section 40. Broadcast Industry Free Market Act; rules
7 governing attorney conduct. Nothing in this Act is intended to
8 supersede the Broadcast Industry Free Market Act or any rules
9 adopted by the Supreme Court of the State of Illinois governing
10 attorney conduct.

11 Section 45. Telephone answering service; customer list.
12 The customer list, including the names, addresses, and identity
13 of customers, of a telephone answering service constitutes a
14 trade secret and confidential information of, and belong to,
15 the owner of the telephone answering service.

16 Section 50. Employment agency; customer list.

17 (a) Except as provided in subsection (b), the customer
18 list, including the names, addresses and identity of all
19 employer customers who have listed job orders with an
20 employment agency within a period of 180 days prior to the
21 separation of an employee from the agency and including the
22 names, addresses, and identity of all applicant customers of
23 the employment agency, constitutes a trade secret and

1 confidential information of, and belong to, the employment
2 agency.

3 (b) Notwithstanding the provisions of subsection (a), no
4 liability shall attach to, and no cause of action shall arise
5 from, the use of a customer list of an employment agency by a
6 former employee who enters into business as an employment
7 agency more than one year immediately following termination of
8 his or her employment.

9 Section 55. Limitation on applicability of Act. The
10 prohibitions applicable to non-compete agreements contained in
11 this Act apply only to employment contracts covering employees
12 earning less than \$1,000,000 annually per calendar year from
13 any combination of salary, benefits, equity, commissions,
14 bonuses, or other forms of compensation.

15 Section 90. The Illinois Freedom to Work Act is amended
16 by".