STATE OF NEW YORK

734

2021-2022 Regular Sessions

IN SENATE

(Prefiled)

January 6, 2021

Introduced by Sen. BIAGGI -- read twice and ordered printed, and when printed to be committed to the Committee on Labor

AN ACT to amend the labor law, in relation to prohibiting non-compete agreements

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The labor law is amended by adding a new section 191-d to read as follows:

§ 191-d. Non-compete agreements. 1. For the purposes of this section, the term:

a. "Non-compete agreement" means an agreement, or clause contained in an employment contract, between an employer and an employee that prohibits or restricts such employee from obtaining employment, after the conclusion of employment with the employer included as a party to the agreement:

(i) for a specified period of time;

(ii) in any specified geographical area; and/or

(iii) with any particular other employer or in any particular industry.

b. "Undue hardship" includes but, is not limited to, situations where an employee loses or leaves a job due to circumstances surrounding a declared state of emergency or disaster emergency as described in section twenty-four or twenty-eight of the executive law.

2. A non-compete agreement is only enforceable if such agreement:

(a) is no greater than required for the protection of the legitimate interest of the employer;

(b) does not impose an undue hardship on the employee;

(c) is not injurious to the public; and

(d) is reasonable in time period and geographic scope.

If any of the provisions of paragraph (a), (b), (c) or (d) of this subdivision is violated, the non-compete agreement is deemed invalid.

§ 2. This act shall take effect immediately.

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

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