STATE OF NEW YORK

4641--A

2025-2026 Regular Sessions

IN SENATE

February 10, 2025

Introduced by Sen. S. RYAN -- read twice and ordered printed, and when printed to be committed to the Committee on Labor -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the labor law, in relation to prohibiting non-compete agreements and certain restrictive covenants

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 any agreement, or clause contained in any agreement, between an employer and a covered individual that prohibits or restricts such covered individual from obtaining employment, after the conclusion of employment with the employer included as a party to the agreement;

(b) "covered individual" means any person other than a highly compensated individual who, whether or not employed under a contract of employment, performs or has performed work or services for another person on such terms and conditions that they are, in relation to that other person, in a position of economic dependence on, and under an obligation to perform duties for, that other person;

(c) "highly compensated individual" means any individual who is compensated at an average annualized rate of cash compensation determined by the income listed on the individual's three most recent W-2 statements and, where applicable, K-1 statements, or all such statements from the duration of the individual's employment if the term of employment is less than three years, equivalent to or greater than five hundred thousand dollars per year, provided that such compensation level shall be adjusted each calendar year, beginning in two thousand twenty-

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

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seven, based on the increase, if any, in the Consumer Price Index for all Urban Consumers for New York state, with the base year of two thousand twenty-six; and

(d) "health related professional" means a physician licensed pursuant to article one hundred thirty-one of the education law, a physician assistant licensed pursuant to article one hundred thirty-one-B of the education law, a chiropractor licensed pursuant to article one hundred thirty-two of the education law, a dentist licensed pursuant to article one hundred thirty-three of the education law, a perfusionist licensed pursuant to article one hundred thirty-four of the education law, a veterinarian licensed pursuant to article one hundred thirty-five of the education law, a physical therapist licensed pursuant to article one hundred thirty-six of the education law, a pharmacist licensed pursuant to article one hundred thirty-seven of the education law, a nurse licensed pursuant to article one hundred thirty-nine of the education law, a podiatrist licensed pursuant to article one hundred forty-one of the education law, an optometrist licensed pursuant to article one hundred forty-three of the education law, a psychologist licensed pursuant to article one hundred fifty-three of the education law, an occupational therapist licensed pursuant to article one hundred fifty-six of the education law, a speech pathologist or audiologist licensed pursuant to article one hundred fifty-nine of the education law, or a mental health practitioner licensed pursuant to article one hundred sixty-three of the education law.

2. No employer or its agent, or the officer or agent of any corporation, partnership, limited liability company, not-for-profit corporation or association or other entity, shall seek, require, demand or accept a non-compete agreement from any covered individual or health related professional. Any non-compete agreement sought, required, demanded or accepted after the effective date of this section shall be null, void, and unenforceable.

3. (a) A covered individual, may bring a civil action in a court of competent jurisdiction against any employer or persons alleged to have violated this section. A covered individual shall bring such action within two years of the later of: (i) when the prohibited non-compete agreement was signed; (ii) when the covered individual learns of the prohibited non-compete agreement; (iii) when the employment or contractual relationship is terminated; or (iv) when the employer takes any step to enforce the non-compete agreement. The court shall have jurisdiction to void any such non-compete agreement and to order all appropriate relief, including enjoining the conduct of any person or employer; ordering payment of liquidated damages; and awarding lost compensation, compensatory damages, reasonable attorneys' fees and costs to the covered individual or health related professional.

(b) For the purposes of this subdivision, liquidated damages shall be calculated as an amount not more than ten thousand dollars per covered individual or health related professional. The court shall award liquidated damages to every covered individual affected under this section, in addition to any other remedies permitted by this section.

4. Nothing in this section shall be construed or interpreted as limiting the protections of individuals under any other provision of federal, state, or local law, rule, or regulation relating to the ability of an employer to enter into an agreement with a prospective or current covered individual or health related professional that: (a) establishes a fixed term of service and/or exclusivity during employment; (b) prohibits disclosure of trade secrets; (c) prohibits disclosure of

confidential and proprietary client information; or (d) prohibits solicitation of clients of the employer; provided that such agreements do not otherwise restrict competition in violation of this section.

5. Nothing in this section shall be construed to amend, modify, impair, or otherwise affect the application of enforcement of section two hundred two-k of this chapter, nor shall it be interpreted to create any conflict or inconsistency with such provision.

6. Notwithstanding any other provision of this section to the contrary, nothing in this section shall prohibit the inclusion and enforcement of non-compete agreements or other similar covenants in the sale of the goodwill of a business or the sale or disposition of a majority of an ownership interest in a business by a partner of a partnership, a member of a limited liability company, or an entity for:

(a) any such partner of a partnership or member of a limited liability company owning at least a fifteen percent interest in such partnership or limited liability company; or

(b) any such person or entity owning fifteen percent or more ownership interest in a business.

7. Any non-compete agreement that is permissible or enforceable under this section shall:

(a) meet all requirements for determining enforceability under the common law of New York, including but not limited to: (i) it is reasonable in time, geography, and scope; (ii) it does not impose an undue hardship on the employee; (iii) it does not harm the public; (iv) it is necessary to protect the employer's legitimate business interests; and (v) its restrictions are no greater than necessary to protect the legitimate business interests of the employer. A non-compete agreement that is reasonable in time pursuant to subparagraph (i) of this paragraph shall not contain a term of restriction greater than one year; and

(b) provide for the payment of salary during the period of enforcement of the non-compete agreement.

8. No choice of law provision or choice of venue provision that would have the effect of avoiding or limiting the requirements of this section shall be enforceable if the covered individual is and has been, for at least thirty days immediately preceding the covered individual's cessation of employment, a resident of New York or employed in New York, including individuals who work remotely in another state but who report to a New York worksite or office or who report to a New York-based supervisor.

9. Every employer shall inform their employees of their protections and rights under this section by posting a notice thereof pursuant to section forty-five of this chapter. Such notice shall be posted conspicuously in easily accessible and well-lighted places customarily frequented by employees and applicants for employment.

§ 2. The labor law is amended by adding a new section 45 to read as follows:

§ 45. Notice to employees related to non-compete agreements. The department shall be tasked with developing a notice to inform employees of their protections and rights pursuant to section one hundred ninety-one-d of this chapter. Such notice shall be provided to employers for distribution to employees and posted on the department's website.

§ 3. Severability clause. If any clause, sentence, paragraph, subdivision, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section

or part thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

§ 4. This act shall take effect on the thirtieth day after it shall have become a law and shall be applicable to contracts entered into or modified on or after such effective date and shall have no retroactive effect; provided, however, that section two of this act shall take effect on the one hundred eightieth day after it shall have become a law. Effective immediately, the addition, amendment, and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.