

JAN 17 2025

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# A BILL FOR AN ACT

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RELATING TO NON-COMPETE CLAUSES.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The legislature finds that in 2015, the State  
2 passed Act 158, Session Laws of Hawaii 2015, banning non-compete  
3 clauses for workers in the technology industry. A 2017 study  
4 published by the United States Census Bureau Center for Economic  
5 Studies found that as a result of this ban, job mobility and  
6 new-hire wages in the State increased by eleven per cent and  
7 four per cent, respectively.

8           The legislature also finds that non-compete clauses in  
9 employment contracts pose multiple disadvantages for employers  
10 and employees alike. Employees that have signed a non-compete  
11 clause are prevented from changing jobs to other employers in  
12 the same field. This hinders upward mobility, especially for  
13 low-wage earners, and subjects affected employees to poor  
14 working conditions as they are unable to advocate for or move to  
15 a better job. Potential employees may also need to seek  
16 expensive legal assistance when signing a contract with a  
17 non-compete clause.



1       The legislature further finds that employers who require a  
2 non-compete clause in an employment contract can be less  
3 attractive to potential employees due to the clause's limiting  
4 effect on future job prospects. Employers also incur legal  
5 expenses for enforcing non-compete clauses.

6       The legislature also finds that prohibiting non-compete  
7 clauses can boost wages and narrow pay gaps experienced by  
8 minorities and women. Prohibiting non-compete clauses also  
9 encourages employers to focus on employee retention and  
10 satisfaction.

11       Accordingly, the purpose of this Act is to void existing  
12 non-compete clauses and prohibit future non-compete clauses for  
13 employees of restaurants and retail stores.

14       SECTION 2. Section 480-4, Hawaii Revised Statutes, is  
15 amended by amending subsection (d) to read as follows:

16       "(d) Except as provided in subsection (c)(4), it shall be  
17 prohibited to include a [~~noncompete~~] non-compete clause or a  
18 [~~non-solicit~~] non-solicit clause in any employment contract  
19 relating to an employee of a technology business[~~-~~], restaurant,  
20 or retail store. The clause shall be void and of no force and  
21 effect.



1 As used in this subsection:

2 "Information technology development" means the design,  
3 integration, deployment, or support services for software.

4 [~~"Noncompete"~~] "Non-compete clause" means a clause in an  
5 employment contract that prohibits an employee from working in a  
6 specific geographic area for a specific period of time after  
7 leaving employment with the employer.

8 [~~"Nonsolicit"~~] "Non-solicit clause" means a clause in an  
9 employment contract that prohibits an employee from soliciting  
10 employees of the employer after leaving employment with the  
11 employer.

12 "Restaurant" has the same meaning as defined in section  
13 321-30.3.

14 "Software development" means the creation of coded computer  
15 instructions.

16 "Technology business" means a trade or business that  
17 derives the majority of its gross income from the sale or  
18 license of products or services resulting from its software  
19 development or information technology development, or both. A  
20 "technology business" excludes any trade or business that is  
21 considered by standard practice as part of the broadcast



1 industry or any telecommunications carrier, as defined in  
2 section 269-1, that holds a franchise or charter enacted or  
3 granted by the legislative or executive authority of the State  
4 or its predecessor governments."

5 SECTION 3. Statutory material to be repealed is bracketed  
6 and stricken. New statutory material is underscored.

7 SECTION 4. This Act, upon its approval, shall take effect  
8 retroactive to July 1, 2015.

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INTRODUCED BY:





# S.B. NO. 1161

**Report Title:**

Employment Covenants or Agreements; Non-Compete Clause; Labor;  
Employment Contracts; Non-Solicit Clause; Restaurants; Retail

**Description:**

Prohibits non-compete and non-solicit clauses in employment  
contracts for employees of restaurants and retail stores.  
Effective retroactive to 7/1/2015.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

