

MAINE STATE LEGISLATURE

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131st MAINE LEGISLATURE

FIRST SPECIAL SESSION-2023

Legislative Document

No. 1496

H.P. 951

House of Representatives, April 5, 2023

An Act to Prohibit Noncompete Clauses

Reference to the Committee on Labor and Housing suggested and ordered printed.

A handwritten signature in cursive script that reads "Robert B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative WARREN of Scarborough.
Cosponsored by Senator TIPPING of Penobscot and
Representative: ROEDER of Bangor.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 26 MRSA §599-A**, as enacted by PL 2019, c. 513, §1, is amended to read:

3 **§599-A. Noncompete agreements**

4 **1. Definitions.** As used in this section, unless the context otherwise indicates, the
5 following terms have the following meanings.

6 A. ~~"Federal poverty level" means the nonfarm income official poverty line for an~~
7 ~~individual, as defined by the federal Office of Management and Budget and revised~~
8 ~~annually in accordance with the Omnibus Budget Reconciliation Act of 1981, Section~~
9 ~~673(2).~~

10 B. "Noncompete agreement" means a contract or contract provision that prohibits an
11 employee or prospective employee from working in the same or a similar profession
12 or in a specified geographic area for a certain period of time following termination of
13 employment.

14 **2. Public policy; enforceability of noncompete agreements.** Noncompete
15 agreements are contrary to public policy and are enforceable only in situations described
16 in subsection 3-B and only to the extent that they are reasonable and are no broader than
17 necessary to protect one or more of the following legitimate business interests of the
18 employer:

19 ~~A. The employer's trade secrets, as defined in Title 10, section 1542, subsection 4;~~

20 ~~B. The employer's confidential information that does not qualify as a trade secret; or~~

21 ~~C. The employer's goodwill.~~

22 A noncompete agreement may be presumed necessary if the legitimate business interest
23 cannot be adequately protected through an alternative restrictive covenant, including but
24 not limited to a nonsolicitation agreement or a nondisclosure or confidentiality agreement.

25 ~~**3. Prohibited for certain workers.** Notwithstanding subsection 2, an employer may~~
26 ~~not require or permit an employee earning wages at or below 400% of the federal poverty~~
27 ~~level to enter into a noncompete agreement with the employer.~~

28 **3-A. Noncompete agreements prohibited.** An employer may not require or permit
29 an employee to enter into a noncompete agreement with the employer.

30 **3-B. Exceptions.** Noncompete agreements are allowable in the following situations,
31 in accordance with subsection 2 and subject to the requirements of this section.

32 A. A seller of a business in this State may be bound by a noncompete agreement
33 prohibiting the seller from opening a competing business in the same geographic area
34 as the business that was sold;

35 B. A shareholder in a limited liability company organized under the laws of this State
36 may be bound by a noncompete agreement if the shareholder sells or disposes of all of
37 the shareholder's shares; or

38 C. A member of a partnership organized under the laws of this State may be bound by
39 a noncompete agreement if the partnership is dissolved.

