Proskauer

Maryland Bars Non-Competes for Low-Wage Employees

Law and the Workplace Blog on **December 2, 2019**

Quick Hit: Effective October 1, 2019, Maryland law prohibits the use of non-competition agreements for employees with wages equal to or less than $15 per hour or $31,200 annually.

Key Takeaway: Maryland employers, and employers with employees who work in Maryland, that utilize non-competition agreements for covered employees should be aware that such agreements are no longer enforceable in Maryland, but that non-disclosure agreements protecting proprietary information remain enforceable for such employees. Affected employers should examine their restrictive covenant practices to ensure the law does not create competitive risks and, if so, consider ways to mitigate those risks such as changing low-wage employee access to information or increasing covered employees' pay.

More Detail:

The Maryland law declares any "noncompete or conflict of interest provision in an employment contract or a similar document or agreement that restricts the ability of an employee to enter into employment with a new employer or to become self-employed in the same or similar business or trade null and void as being against public policy of the State." The law specifically provides that its prohibition on non-competition agreements does not extend to "employment contract[s] or similar document[s] or agreement[s] with respect to the taking or use of a client list or other proprietary client-related information." The law is silent on the subject of agreements not to solicit customers or employees.

In enacting this legislation, Maryland has joined a growing national trend. In recent years several other states, including Illinois, Maine, Massachusetts, New Hampshire, Oregon, Rhode Island and Washington, have passed laws restricting the use of non-competition agreements against low-wage employees. In addition, state attorneys general have engaged in efforts to invalidate non-competition agreements against low-wage employees by bringing suits against individual employers.

View Original

Related Professionals

- **Guy Brenner**
  Partner