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PRESS RELEASE

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Senate Passes Bill Limiting Noncompetition Agreements

BOSTON— State lawmakers took a step forward in limiting noncompetition agreements in Massachusetts on Thursday, with the Massachusetts State Senate passing S.2148, “An Act relative to the judicial enforcement of noncompetition agreements.”

Most notably, the bill would restrict noncompetition agreements to 3 months and require employers to pay 100% of the employee’s annualized earnings during the restricted period, or other mutually-agreed upon consideration negotiated within 30 days following the employee’s termination which is of equal or greater value than the garden leave clause. If no agreement for other consideration is reached within 30 days, the garden leave clause becomes effective.

"This bill is reflective of the ever changing business sector and provides protections to workers who otherwise would be prohibited from using their own knowledge and expertise in new ventures," said Senator Gobi.

“Non-compete agreements can serve a legitimate purpose to protect intellectual property and business interests. There have been, however, significant abuses of these agreements that cause harm to both workers and businesses alike,” **said Senate President Stan Rosenberg (D-Amherst)**. “This legislation provides fairness and balance to the workplace to allow employees to flourish in their profession and not be confined by overly aggressive non-compete agreements.”

The legislation restricts employers from enforcing noncompetition agreements on interns, undergraduate and graduate students, employees under 18, hourly workers, employees who are terminated without cause or laid off, independent contractors, and employees whose average weekly earnings are less than two times the average weekly wage in the commonwealth, roughly \$130,000.

To be enforced, the non-compete must be reviewed with the employee at least once every 3 years and the employer must notify the employee in writing within 10 days of the employee's termination of the employer's intent to enforce the non-compete.

The legislation prohibits a court from reforming a non-compete to make it comply with the bill's requirements, encourages narrowly-drawn non-competes drafted with specificity as to what activities are proscribed and why and how they relate to the trade secrets or confidential business information that is sought to be protected.

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