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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2020

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A N A C T

RELATING TO LABOR AND LABOR RELATIONS - NONCOMPETITION AGREEMENTS  
- BROADCAST EMPLOYEES

Introduced By: Representatives Barros, Casimiro, Johnston, Knight, and Shanley

Date Introduced: February 26, 2020

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 28-59-2 and 28-59-3 of the General Laws in Chapter 28-59 entitled  
2 "Rhode Island Noncompetition Agreement Act [Effective January 15, 2020]" are hereby amended  
3 to read as follows:

4 **28-59-2. Definitions. [Effective January 15, 2020.]**

5 As used in this chapter:

6 (1) "Associated broadcast entities" means entities that provide reporting services to  
7 broadcast television or radio stations, including, without limitation, subcontractors that provide  
8 weather, sports, traffic, and other reports for broadcast or cablecast;

9 (2) "Broadcast employee" means any employee of a broadcast industry employer, except  
10 those employees whose services primarily include sales or management functions;

11 ~~(4)~~(3) "Business entity" means any person as defined in § 43-3-6 and includes a  
12 corporation, business trust, estate trust, partnership, association, joint venture, government,  
13 governmental subdivision or agency, or any other legal or commercial entity.

14 (4) "Broadcast industry employer" means the owner or operator of one or more broadcast  
15 television or radio stations, including any associated broadcast entity, but excluding cable stations  
16 or cable networks;

17 (5) "Broadcast television or radio station" means an entity that is owned or operated either  
18 by holding a Federal Communications Commission television or radio license for the station, or by

1 [operating a station through a local service, sales, marketing, or outsourcing agreement;](#)

2 [\(6\) "Cable network" means an entity that distributes programming to two \(2\) or more local](#)  
3 [cable systems;](#)

4 [\(7\) "Cable station" means an entity that produces or transmits programming to one or more](#)  
5 [local cable systems; and](#)

6 ~~(2)~~[\(8\)](#) "Earnings" means wages or compensation paid to an employee in the first forty (40)  
7 hours of work in a given week, not inclusive of hours paid at an overtime, Sunday, or holiday rate.

8 ~~(3)~~[\(9\)](#) "Employee" means an individual who works for hire, including an individual  
9 employed in a supervisory, managerial, or confidential position, but shall not include an  
10 independent contractor.

11 ~~(4)~~[\(10\)](#) "Employer" means any person, business entity, partnership, individual  
12 proprietorship, joint venture, firm, company, or other similar legal entity that employs one or more  
13 employees, and shall include the state and its instrumentalities and political subdivisions, public  
14 corporations, and charitable organizations.

15 ~~(5)~~[\(11\)](#) "Forfeiture agreement" means an agreement that imposes adverse financial  
16 consequences on a former employee as a result of the termination of an employment relationship,  
17 regardless of whether the employee engaged in competitive activities, following cessation of the  
18 employment relationship. Forfeiture agreements do not include forfeiture for competition  
19 agreements.

20 ~~(6)~~[\(12\)](#) "Forfeiture for competition agreement" means an agreement that by its terms or  
21 through the manner in which it is enforced, imposes adverse financial consequences on a former  
22 employee as a result of the termination of an employment relationship if the employee engages in  
23 competitive activities.

24 [\(13\) "Local cable system" means a cable system, as defined in 47 U.S.C. 522, as from time](#)  
25 [to time amended, operating in the state.](#)

26 ~~(7)~~[\(14\)](#) "Low-wage employee" means an employee whose average annual earnings, as  
27 defined in subsection (2), are not more than two hundred fifty percent (250%) of the federal poverty  
28 level for individuals as established by the United States Department of Health and Human Services  
29 federal poverty guidelines.

30 ~~(8)~~[\(15\)](#) "Noncompetition agreement" means an agreement between an employer and an  
31 employee, or otherwise arising out of an existing or anticipated employment relationship, under  
32 which the employee or expected employee agrees that he or she will not engage in certain specified  
33 activities competitive with his or her employer after the employment relationship has ended.  
34 Noncompetition agreements include forfeiture for competition agreements, but do not include:

- 1 (i) Covenants not to solicit or hire employees of the employer;
- 2 (ii) Covenants not to solicit or transact business with customers, clients, or vendors of the  
3 employer;
- 4 (iii) Noncompetition agreements made in connection with the sale of a business entity or  
5 all or substantially all of the operating assets of a business entity or partnership, or otherwise  
6 disposing of the ownership interest of a business entity or partnership, or division or subsidiary of  
7 any of the foregoing, when the party restricted by the noncompetition agreement is a significant  
8 owner of, or member or partner in, the business entity who will receive significant consideration or  
9 benefit from the sale or disposal;
- 10 (iv) Noncompetition agreements originating outside of an employment relationship;
- 11 (v) Forfeiture agreements;
- 12 (vi) Nondisclosure or confidentiality agreements;
- 13 (vii) Invention assignment agreements;
- 14 (viii) Noncompetition agreements made in connection with the cessation of or separation  
15 from employment if the employee is expressly granted seven (7) business days to rescind  
16 acceptance; or
- 17 (ix) Agreements by which an employee agrees to not reapply for employment to the same  
18 employer after termination of the employee.

19 ~~(16)~~ "Trade secret" means information as defined in § 6-41-1.

20 **28-59-3. Enforceability. [Effective January 15, 2020.]**

21 (a) A noncompetition agreement shall not be enforceable against the following types of  
22 workers:

23 (1) An employee who is classified as nonexempt and exempt under the Fair Labor  
24 Standards Act, 29 U.S.C. § 201-219;

25 (2) Undergraduate or graduate students who participate in an internship or otherwise enter  
26 a short-term employment relationship with an employer, whether paid or unpaid, while enrolled at  
27 an educational institution;

28 (3) Employees age eighteen (18) or younger; or

29 (4) A low-wage employee.

30 (b) No broadcast industry employer employment contract for the services of a broadcast  
31 employee may contain a provision requiring that such broadcast employee:

32 (1) Refrain from obtaining employment in a specified geographical area for a specified  
33 period of time after termination of employment with that broadcast industry employer;

34 (2) Disclose the terms or conditions of an offer of employment, or the existence of any

1 such offer, from any other broadcast industry employer following the expiration of the term of the  
2 employment contract; or

3 (3) Agree to enter into a subsequent employment contract with the broadcast industry  
4 employer, or extend or renew the existing employment contract, upon the same terms and  
5 conditions offered by a prospective employer.

6 (c) Any person who is aggrieved by a violation of this section may bring a civil action in  
7 the superior court to recover damages, together with court costs and reasonable attorneys' fees.

8 ~~(b)~~(d) This section does not render void or unenforceable the remainder of a contract or  
9 agreement containing the unenforceable noncompetition agreement, nor does it preclude the  
10 imposition of a noncompetition restriction by a court, whether through preliminary or permanent  
11 injunctive relief or otherwise, as a remedy for a breach of another agreement or of a statutory or  
12 common law duty.

13 ~~(e)~~(e) Nothing in this section shall preclude an employer from entering into an agreement  
14 with an employee not to share any information, including after the employee is no longer employed  
15 by the employer, regarding the employer or the employment that is a trade secret.

16 (f) The provisions of this section shall apply to employment contracts entered into,  
17 renewed, or extended on or after January 1, 2021.

18 SECTION 2. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

A N A C T

RELATING TO LABOR AND LABOR RELATIONS - NONCOMPETITION AGREEMENTS  
- BROADCAST EMPLOYEES

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- 1           This act would prohibit the inclusion of noncompetition agreements in broadcast industry
- 2           employment contracts that are entered into after January 1, 2021.
- 3           This act would take effect upon passage.

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