

SB 949 A STAFF MEASURE SUMMARY

Carrier: Sen. Gelser

Senate Committee On Human Services

Action Date: 04/05/17

Action: Do pass with amendments. (Printed A-Eng.)

Vote: 5-0-0-0

Yeas: 5 - Dembrow, Gelser, Knopp, Monnes Anderson, Olsen

Fiscal: No fiscal impact

Revenue: No revenue impact

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WHAT THE MEASURE DOES:

Makes noncompetition agreements in employment contracts for home care workers voidable by the home care worker. Makes covenant between employer and home care worker voidable when covenant prohibits transacting business with customers or soliciting other employees.

ISSUES DISCUSSED:

- Current practice regarding noncompetition clauses for home care workers
- Clarity for non-legal audiences
- Role of noncompetition covenants and agreements
- Applicability of noncompetition statutes to other types of workers
- Current law regarding noncompetition agreements and covenants

EFFECT OF AMENDMENT:

Makes covenant to not solicit other employees or transact business with customers in employment relationship between employer and home care worker voidable.

BACKGROUND:

Oregon law defines noncompetition agreements as employment agreements or contracts that restrict an employee from providing products, processes, or services similar to those offered by the employer after employment is terminated. Such agreements can be for a specified period (up to 18 months) or for a specified geographic area. Many noncompetition agreements are voidable in Oregon unless certain specified conditions are met. The voidability of noncompetition agreements does not apply to a covenant against soliciting an employer's other employees, or a covenant against soliciting business from customers of the employer.

Senate Bill 949-A makes explicit that noncompetition agreements between employers and home care workers are voidable by the home care worker and unenforceable by Oregon courts. The measure also makes covenants between home care workers and employers that prohibit the worker from soliciting other employees or transacting business with the employer's customers voidable and unenforceable in Oregon courts.