

Department of Legislative Services
Maryland General Assembly
2015 Session

FISCAL AND POLICY NOTE

House Bill 1066 (Delegate Hornberger)
Economic Matters

Labor and Employment - Nondisclosure Agreements - Prohibition

This bill prohibits an employer from (1) including a nondisclosure agreement in an employment contract or any other similar employment-related documents; (2) requiring an employee to enter into a nondisclosure agreement with the employer for any reason; or (3) otherwise establishing with an employee the expectation that a confidential relationship exists with respect to proprietary information. A “nondisclosure agreement” is defined as an oral or written agreement between an employer and employee that prohibits an employee from disclosing proprietary information to a third party. The bill applies prospectively and has no effect on nondisclosure agreements entered into before its October 1, 2015 effective date.

Fiscal Summary

State Effect: None. The Department of Labor, Licensing, and Regulation can implement the bill with existing resources. The bill does not apply to the State as an employer.

Local Effect: None. The bill does not apply to local governments as employers.

Small Business Effect: Potential meaningful.

Analysis

Current Law: Under the Maryland Uniform Trade Secrets Act, a “trade secret” is information (including a formula, pattern, compilation, program, device, method, technique, or process) that (1) derives independent economic value, actual or potential, from not being generally known or readily ascertainable by other persons who can obtain economic value from its disclosure or use and (2) is the subject of efforts that are reasonable

under the circumstances to maintain its secrecy. The Act provides injunctive relief for an actual or threatened misappropriation of a trade secret. To qualify as misappropriation, one must either acquire the trade secret by improper means or disclose the trade secret without express or implied consent.

Small Business Effect: The bill may have a meaningful impact on small businesses with nondisclosure agreements due to employees disclosing proprietary information to a third party. However, employees still must abide by the Maryland Uniform Trade Secrets Act.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Labor, Licensing, and Regulation; *The Washington Post*; Department of Legislative Services

Fiscal Note History: First Reader - March 5, 2015
min/mcr

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