

Department of Legislative Services
Maryland General Assembly
2020 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1466

(Delegate Boteler, *et al.*)

Economic Matters

Labor and Employment - Employment Contracts - Intellectual Property

This bill establishes that any provision in an employment contract that requires that an employee assign to an employer the employee's rights in a piece of intellectual property developed outside the scope of employment on the employee's own time without using specified resources of the employer is null and void as being against the public policy of the State. A presently existing obligation or contract right may not be impaired in any way by the bill. The bill applies prospectively to any cause of action arising on or after the bill's October 1, 2020 effective date.

Fiscal Summary

State Effect: None. The bill can be enforced with existing resources. Revenues are not affected.

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Current Law: A noncompete or conflict of interest provision in an employment contract or similar document or agreement that restricts the ability of an employee who earns \$15 per hour or less or \$31,200 or less annually to enter into employment with a new employer or become self-employed in the same or similar business or trade is null and void as being against the public policy of the State, regardless of whether or not the employer and employee entered into the employment contract or similar document or agreement in the State. However, this provision does not apply to an employment contract or a similar

document or agreement with respect to the taking or use of a client list or other proprietary client-related information.

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 to 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.

Background: Eight states (California, Delaware, Illinois, Kansas, Minnesota, North Carolina, Utah, and Washington) have laws that impose restrictions on the permissible scope of assignments of employee-created inventions.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): IntellectualPropertyLawfirms.com; Maryland Department of Labor; Department of Legislative Services

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mm/mcr

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