

Department of Legislative Services  
Maryland General Assembly  
2023 Session

FISCAL AND POLICY NOTE  
Third Reader

Senate Bill 591  
Finance

(Senator Smith)

Economic Matters

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Labor and Employment - Noncompete and Conflict of Interest Provisions -  
Application of Prohibition

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This bill increases the amount that an employee must earn in order for a noncompete or conflict of interest provision in an employment contract to be permissible under State law. The current earnings threshold is more than \$15.00 per hour or \$31,200 annually. Under the bill, the threshold is more than 150% of the State minimum wage rate.

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Fiscal Summary

**State Effect:** The bill does not materially affect State finances or operations.

**Local Effect:** The bill does not materially affect local government finances or operations.

**Small Business Effect:** Minimal. More employees at small businesses cannot be subject to noncompete or conflict of interest provisions; effects on small businesses overall are largely operational to ensure compliance with the higher threshold.

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Analysis

**Current Law:** For an employee who earns equal to or less than \$15.00 per hour or \$31,200 annually, a noncompete or conflict of interest provision in an employment contract or a similar document or agreement that restricts the ability of an employee to enter into employment with a new employer or to become self-employed in the same or similar business or trade is null and void as being against the public policy of the State. The provision is null and void whether or not the employer and employee entered into the employment contract or similar document or agreement in the State. The 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.

Chapters 10 and 11 of 2019 increase the State minimum wage rate for employers with 15 or more employees in increments until the full phase-in of \$15.00 per hour on January 1, 2025. For employers with 14 or fewer employees, the wage rate reaches full phase-in on July 1, 2026. In 2023 when the bill becomes effective, the minimum wage rate is \$13.25 for employers with 15 or more employees and \$12.80 for employers with 14 or fewer employees.

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### **Additional Information**

**Prior Introductions:** Similar legislation has not been introduced within the last three years.

**Designated Cross File:** None.

**Information Source(s):** Maryland Department of Labor; Department of Legislative Services

**Fiscal Note History:** First Reader - February 28, 2023  
km/mcr Third Reader - March 14, 2023

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