



445784

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/17/2025	.	
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The Committee on Commerce and Tourism (Leek) recommended the following:

Senate Amendment

Delete lines 126 - 284

and insert:

provide discretionary incentive compensation or discretionary benefits or have the covered employee continue performing any work during the notice period.

(6) "Covered noncompete agreement" means a written agreement, or a portion of a written agreement, between a covered employee and a covered employer in which, for a period



445784

11 not to exceed 4 years and within a specified geographic area,
12 which may be global in scope, the covered employee agrees not to
13 assume a role with or for another business, entity, or
14 individual:

15 (a) In which the covered employee would provide services
16 similar to the services provided to the covered employer during
17 the 3 years preceding the noncompete period; or

18 (b) In which it is reasonably likely the covered employee
19 would use the confidential information or customer relationships
20 of the covered employer.

21 (7) "Noncompete period" means the time from the covered
22 employee's termination of employment through the end of the
23 agreed-upon postemployment period of noncompetition as set forth
24 in the covered noncompete agreement.

25 (8) "Notice period" means the date from the covered
26 employee's or covered employer's written notice of intent to
27 terminate the covered employee's employment through the date of
28 termination as set forth in a covered garden leave agreement.

29 (9) "Primary place of work" means the location where the
30 covered employee spends more work time than any other single
31 workplace.

32 (10) "Salary" means the base compensation, calculated on an
33 annualized basis, which a covered employer pays a covered
34 employee, including a base wage, a salary, a professional fee,
35 or other compensation for personal services, and the fair market
36 value of any benefit other than cash. Salary does not include
37 health care benefits, severance pay, retirement benefits,
38 expense reimbursement, distribution of earnings and profits not
39 included as compensation for personal services, discretionary



445784

40 incentives or awards, or anticipated but indeterminable
41 compensation, including tips, bonuses, or commissions.

42 542.44 Covered garden leave agreement.—

43 (1) APPLICABILITY.—This section applies to:

44 (a) A covered garden leave agreement with a covered
45 employee who maintains a primary place of work in this state,
46 regardless of any applicable choice of law provisions; or

47 (b) A covered employee who is subject to a covered garden
48 leave agreement with a covered employer with a significant nexus
49 to this state.

50
51 If any provision of this section is in conflict with any other
52 law, the provisions of this section shall govern.

53 (2) RESTRAINT OF TRADE.—A covered garden leave agreement
54 does not violate public policy as a restraint of trade, as
55 described in s. 542.18, or an attempt to monopolize trade or
56 commerce in this state, as described in s. 542.19, and is fully
57 enforceable according to its terms, provided that:

58 (a) A covered employee is provided proper notice of the
59 covered garden leave agreement before its execution, as
60 described in subsection (3); and

61 (b) The covered garden leave agreement provides that:

62 1. After the first 90 days of the notice period, the
63 covered employee does not have to provide services to the
64 covered employer;

65 2. The covered employee may engage in nonwork activities at
66 any time, including during normal business hours, during the
67 remainder of the notice period; and

68 3. The covered employee may, with the permission of the



445784

69 covered employer, work for another employer while still employed
70 by the covered employer during the remainder of the notice
71 period.

72 (3) NOTICE; WAIVER OF NOTICE.-

73 (a) Proper notice of a covered garden leave agreement
74 requires:

75 1. For a prospective covered employee, at least 7 days
76 before a prospective covered employee's offer of employment
77 expires.

78 2. For a current covered employee, at least 7 days before
79 an offer to enter into a covered garden leave agreement expires.

80 (b) A prospective or current covered employee must
81 acknowledge in writing that he or she was expressly advised of
82 the right to seek legal counsel before the execution of the
83 covered garden leave agreement.

84 (c) The covered employer may, without breach of the covered
85 garden leave agreement, waive any portion of this subsection by
86 providing at least 30 days' advance notice in writing to the
87 covered employee.

88 (4) OTHER AGREEMENTS.-This section does not affect or limit
89 the enforceability of any other employment agreement or any
90 other agreement.

91 (5) BREACH OF A COVERED GARDEN LEAVE AGREEMENT; REMEDIES.-

92 (a) Upon application by a covered employer, a court must
93 preliminarily enjoin a covered employee from providing services
94 to any business, entity, or individual other than the covered
95 employer during the notice period. The court may modify or
96 dissolve the injunction only if the covered employee establishes
97 by clear and convincing evidence that:



445784

98 1. The covered employee will not perform, during the notice
99 period, any work similar to the services provided to the covered
100 employer during the 3-year period preceding the commencement of
101 the notice period, or use confidential information or customer
102 relationships of the covered employer; or

103 2. The covered employer has failed to pay or provide the
104 salary and benefits provided for in the covered garden leave
105 agreement during the notice period and has had a reasonable
106 opportunity to cure the failure.

107 (b) Upon application by a covered employer, a court must
108 preliminarily enjoin a business, an entity, or an individual
109 from engaging a covered employee during the covered employee's
110 notice period. The court may modify or dissolve the injunction
111 only if the business, entity, or individual establishes by clear
112 and convincing evidence, based on public or other
113 nonconfidential information, that:

114 1. The covered employee will not provide any services
115 similar to the services provided to the covered employer during
116 the 3-year period preceding the commencement of the notice
117 period, or use confidential information or customer
118 relationships of the covered employer; or

119 2. The business or individual seeking to employ or engage
120 the covered employee is not engaged in, and is not planning or
121 preparing to engage in, any business activity similar to those
122 engaged in by the covered employer during the notice period.

123
124 Any information filed with the court which the covered employer
125 deems to be confidential must be filed under seal to protect
126 trade secrets or avoid substantial injury.



445784

127 (c) The injunctive relief provided under this section is
128 not an exclusive remedy, and a prevailing covered employer is
129 entitled to recover all available monetary damages for all
130 available claims.

131 (d) In any action to enforce this section, the prevailing
132 party is entitled to reasonable attorney fees and costs.

133 (e) If the covered employee engages in gross misconduct
134 against the covered employer, the covered employer may reduce
135 the salary or benefits of the covered employee or take other
136 appropriate action during the notice period, which reduction or
137 other action may not be considered a breach of the covered
138 garden leave agreement.

139 542.45 Covered noncompete agreements.—

140 (1) APPLICABILITY.—This section applies to:

141 (a) A covered noncompete agreement with a covered employee
142 who maintains a primary place of work in this state, regardless
143 of any applicable choice of law provisions; or

144 (b) A covered employee who is subject to a covered
145 noncompete agreement with a covered employer with a significant
146 nexus to this state.

147
148 In either case, if any provision of this section is in conflict
149 with any other law, the provisions of this section govern.

150 (2) RESTRAINT OF TRADE.—A covered noncompete agreement does
151 not violate public policy as a restraint of trade, as described
152 in s. 542.18, or an attempt to monopolize trade or commerce in
153 this state, as described in s. 542.19, and is fully enforceable
154 according to its terms, provided that:

155 (a) A covered employee is provided proper notice of the



445784

156 covered noncompete agreement before its execution, as described
157 in subsection (3); and

158 (b) A covered noncompete agreement provides that the
159 noncompete period is reduced day-for-day by any nonworking
160 portion of the notice period, pursuant to a covered garden leave
161 agreement between the covered employee and the covered employer,
162 if applicable.

163 (3) NOTICE.—Proper notice of a covered