

One Minute Memo[®]



New Hampshire Enacts New Law Requiring Disclosure of Non-Compete and Non-Piracy Agreements Prior To Job Offer And Change In Job Classification

The New Hampshire legislature recently passed a new state law that will require the disclosure of non-compete and non-piracy agreements to potential employees **prior to** making offers of new employment and to existing employees with an offer of change in job classification. Governor Lynch signed the bill on May 15, 2012. Under the new *law*, any agreement that is not in compliance with the law shall be void and unenforceable.

The new law is effective July 14, 2012. Employers using non-compete and/or non-piracy agreements must plan accordingly. We previously *alerted* our readers to this legislation after New Hampshire's House recommended the bill in March. The full text of the law can be found *here*. The law has some similarities to Oregon's non-compete statute which also has pre-offer *disclosure requirements*.

Some legal *commentators* have noted that New Hampshire courts generally look with disfavor on non-compete agreements and they have *criticized* the new law for its lack of clarity concerning the meaning of non-piracy agreements. Based upon the statutory language, it is unclear whether non-piracy agreements means non-solicitation clauses or also includes non-disclosure clauses. Additionally, "change in job classification" is not defined under the law. "Change in job classification" could mean promotion, lateral move, demotion, or change in title. Case law or additional legislation will need to further define the statutory language.

Employers conducting business in New Hampshire will want to take this new law into account and comply in the hiring and employment process with New Hampshire employees.

By *Robert Milligan* and *Ryan Malloy*

Robert Milligan is a partner in Seyfarth's Los Angeles office and *Ryan Malloy* is an associate in the Boston office. If you would like further information, please contact your Seyfarth attorney, Robert Milligan at rmilligan@seyfarth.com, or Ryan Malloy at rmalloy@seyfarth.com. You may also visit our blog, Trading Secrets, by clicking *here*.