

20104314D

HOUSE BILL NO. 1550

Offered January 10, 2020

A BILL to amend the Code of Virginia by adding a section numbered 13.1-564.1, relating to retail franchises; covenants not to compete.

Patron—Davis

Referred to Committee on Labor and Commerce

Be it enacted by the General Assembly of Virginia:**1. That the Code of Virginia is amended by adding a section numbered 13.1-564.1 as follows:****§ 13.1-564.1. Covenants not to compete.**

A. As used in this section, "covenant not to compete" means a covenant or agreement, including a provision of a franchise, between a franchisor and any of its franchisees that restrains, prohibits, or otherwise restricts the ability of a former franchisee to conduct, after the termination or expiration of the franchise, a business that will compete with the franchisor or another franchisee of the franchisor of the same type that was conducted by the former franchisee pursuant to the terms of its franchise.

B. Any covenant not to compete executed on or after July 1, 2020, shall be void if the franchisor or a franchisee other than a former franchisee to whom a covenant not to compete is sought to be enforced has not conducted a business of the same type that was conducted by the former franchisee both (i) within 150 miles of area in which the former franchisee was authorized to conduct the business pursuant to its franchise and (ii) at any time during the 12 months preceding the termination or expiration of the former franchisee's franchise.

C. Nothing in this section shall serve to limit the creation or application of nondisclosure agreements intended to prohibit the sharing of certain information, including but not limited to trade secrets and proprietary or confidential information.

D. The execution of, or an attempt to enforce, a covenant not to compete that pursuant to this section is void is a violation of this chapter for which the Commission may impose a civil penalty as provided in § 13.1-570. The provisions of § 13.1-569 shall not apply to a violation of this section.

E. Any former franchisee that has suffered damages by reason of any violation of this section may bring an action against its former franchisor to recover the damages sustained by reason thereof in accordance with the provisions of § 13.1-564.

INTRODUCED

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