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**HOUSE BILL NO. 1792**

Offered January 9, 2019

Prefiled December 27, 2018

*A BILL to amend the Code of Virginia by adding in Article 1 of Chapter 3 of Title 40.1 a section numbered 40.1-28.7:7, relating to covenants not to compete; low-wage employees.*

Patrons—VanValkenburg, Adams, D.M., Ayala, Bourne, Kory, Levine, Lopez, McQuinn, Mullin, Plum, Rasoul, Reid, Rodman, Simon and Watts; Senators: Edwards and Surovell

Referred to Committee on Commerce and Labor

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding in Article 1 of Chapter 3 of Title 40.1 a section numbered 40.1-28.7:7 as follows:**

**§ 40.1-28.7:7. Covenants not to compete; low-wage employees.**

**A. As used in this section:**

"Covenant not to compete" means an agreement, including a provision of a contract of employment, that is entered into on or after July 1, 2019, between an employer and a low-wage employee that restricts such low-wage employee from performing (i) any work for another employer for a specified period of time; (ii) any work in a specified geographical area; or (iii) work for another employer that is similar to such low-wage employee's work for the employer included as a party to the agreement.

"Low-wage employee" means an employee whose average weekly earnings, calculated by dividing the employee's earnings during the period of 52 weeks immediately preceding the date of termination of employment by 52 or, if an employee worked fewer than 52 weeks, by the number of weeks that the employee was actually paid during the 52-week period, are less than the average weekly wage of the Commonwealth as determined pursuant to subsection B of § 65.2-500.

**B. No employer shall enter into a covenant not to compete with any low-wage employee of the employer.**

**C. A covenant not to compete entered into between an employer and a low-wage employee shall be deemed contrary to public policy and shall be void and unenforceable.**

INTRODUCED

HB1792