

Northern New England

MONDAY MORNING MINUTE

June 23, 2014

NH's Non-Compete Statute Likely to Be Repealed and Replaced

In 2012, the NH legislature adopted RSA 275:70, **Notice of Non-Compete and Non-Piracy Agreements Required**, which stated, "Prior to or concurrent with making an offer of change in job classification or an offer of employment, every employer shall provide a copy of any non-compete or non-piracy agreement that is part of the employment agreement to the employee or potential employee. Any contract that is not in compliance with this section shall be void and unenforceable."

Many employers vociferously objected to the statute as it restricted an employer's ability to implement a non-compete agreement except at the time of hire or as part of a change in a job classification. Although the statute was intended to require employers to disclose non-compete agreements at the inception of hire, it nevertheless had perhaps the unintended consequence of restricting an employer's ability to later implement a non-compete agreement.

As part of the lobbying efforts of the business community, the NH Legislature has passed Senate Bill 351, which will replace the 2012 version of RSA 275:70. The new law will state as follows:

Any employer who requires an employee who has not previously been employed by the employer to execute a non-compete agreement as a condition of employment shall provide a copy of such agreement to the potential employee prior to the employee's acceptance of an offer of employment. A non-compete agreement that has not been disclosed to an employee as required by this section, shall not be enforceable against the employee, but all other provisions of any employment, confidentiality, non-disclosure, trade secret, intellectual property assignment, or any other type of employment agreement or provision shall remain in full force and effect.

For specific information or answers to questions, please contact any of the attorneys in the Portsmouth, NH office:

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Although still not as precise as requested by the business community, the new law does not appear to limit an employer's ability to obtain non-compete agreements from existing employees. The pending new RSA 275:70 also appears to allow employers to require and enforce non-disclosure and confidentiality agreements even if they were not disclosed at the time of hire.

Your Jackson Lewis Attorney can answer questions regarding this and other employment law issues.



The Portsmouth Office of Jackson Lewis P.C. was recently named a top tier "Labor and Employment" office in New Hampshire by Chambers USA.

Additionally, Office Managing Shareholder **Debra Weiss Ford** and Portsmouth Shareholders **Thomas M. Closson, Daniel P. Schwarz** and **Martha Van Oot** were named "LEADERS IN THEIR FIELD" in the 2014 Chambers USA Legal Guide.

SAVE THE DATE!

Jackson Lewis Portsmouth Office Annual Half-Day Legal Update



Please join our Portsmouth Office for a half-day legal update on the most pressing Labor and Employment topics.

Thursday, October 9, 2014

Registration: 8:00 – 8:30 a.m. | Program: 8:30 a.m. – 12:00 p.m.

Portsmouth Harbor Events and Conference Center

100 Deer Street at 22 Portwalk Place | Portsmouth, NH 03801

Invitation coming soon!