

Robert S. Mantell, President
**Massachusetts Employment Lawyers
Association**
Rodgers, Powers & Schwartz LLP
18 Tremont St., Suite 500
Boston, MA 02108
(617) 742-7010
RMantell@TheEmploymentLawyers.com

May 20, 2010

Rep. William Brownsberger
Room 276
Rep. Lori Ehrlich
Room 472
State House
Boston, MA 02133

Re: MELA Endorses House No. 4604, An Act to Prohibit
Restrictive Employment Covenants

Dear Rep. Brownsberger and Rep. Ehrlich:

The Massachusetts Employment Lawyers Association is please to endorse H4607, to limit the use and enforcement of non-competition agreements. Non-competition agreements have a devastating effect on employees and their families, and they have been over-used. The present law has stifled ordinary competition in the marketplace and has precluded innovation.

The bill would reduce the most abusive types of covenants by limiting them to a one year restriction, and preventing their imposition on employees earning less than \$75,000. Adequate consideration would be required, as would be clear notice of the limitations imposed. Finally, employers would be required to pay attorneys fees, to the extent that they sought to improperly prevent people from earning a living.

The burden would be placed on employers to word their agreements narrowly to protect only their legitimate business interests.

To be sure, non-competition agreements arising from the sale of a business are valid, and justified instruments, and these agreements are not precluded by H4607. Likewise, current State and Federal laws prohibit the improper use of trade secrets, confidential information, and intellectual property; these justified

OFFICERS

ROBERT S. MANTELL, PRESIDENT | LYNN G. WEISSBERG, VICE PRESIDENT
AMY C. MAINELLI BURKE, SECRETARY | DAVID CONFORTO, TREASURER

COMMITTEE CHAIRS

SARA SMOLIK, AMICUS | JONATHAN M. FEIGENBAUM, ERISA
JOHN DAVIS & PHILIP GORDON, LEGISLATIVE | LYNN G. WEISSBERG, MCAD
LORI JODOIN & PAUL MERRY, PROGRAMMING | PHILIP GORDON, WAGE & HOUR

and necessary protections are undiminished by this bill. Finally, current law permitting the use of reasonable non-disclosure and non-solicitation contracts would not be disturbed.

However, the status quo on non-compete law is unacceptable, as workers are being unnecessarily chilled out of the job market, in during this rough economy. Their skills and qualifications are being wasted, and ambitious and productive workers are moving to California, which refuses to recognize such agreements. In the long run, this legislation is good for workers and good for business.

Thank you for supporting this bill, and for the open process in which this legislation was prepared. Feel free to contact me with any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'Robert S. Mantell', written in a cursive style.

Robert S. Mantell

MELA let wbro3