

February 1, 2019

Bill H.1

House Committee on Commerce and Economic Development

Chair: Rep. Michael Marcotte

Introduced by:

Rep. Martin Lalonde

Rep. Annmarie Christensen

Comments submitted by Marc Sherman:

Owner Stowe Mercantile,

Government Affairs Vice Chair Vermont Retail & Grocers Association

I strongly disagree with the intent of House Bill H.1. Regarding Non-complete agreements.

I founded Stowe Mercantile 31 years ago. I have succeeded for over three decades with personal perseverance and extensive knowledge of the retail industry combined with talented and bright employees who contributed innovation and insights into my business. I have prided myself on encouraging and recognizing these employees and rewarding them with the very best compensation the business can provide.

Their insights have been valuable only because I gave them access to critical company information:

- Complete financial reports

- Pricing formulas and ratios

- Terms and conditions for current leases

- Loan terms

- Critical financial ratios for the retail business sector

 - Sales : Cost of Goods

 - Sales : Facilities

 - Sales : Payroll Expenses

 - Sales : Operating Expenses

 - Sales : Debt

 - Inventory, Equipment, Debt and Equity Values

- Contact persons: for banking services

 - for credit card processing

 - Vt department of taxes

 - Sales & Use

 - Rooms & Meals

 - Service companies for maintenance & repairs

 - Suppliers: Packaging, Office supplies, retail specific supplies

- Product Vendor List

Perhaps the most critical knowledge for an independent retailer is their vendor list for the products they sell. In my business, our vendor list exceeds 350 individual vendors. This list is what makes my store unique and different and is the major reason my business has lasted this long and provided quality jobs to my staff.

An employee with a good grasp of general business and access to all the above information could very easily establish a store next door to mine and compete head to head. This would be disastrous to my business.

In 2007, when the financial crises hit, my business revenue dropped by more than 15% that year. I personally stopped receiving any compensation from my company but more importantly, I reduced my staff by 3 positions, laid off my book keeper and reduced all staff salaries and hourly pay rates. This critical moment in the economy almost claimed my company.

A former employee opening a similar store in the same market could have the same effect.

I am aware of two instances in Stowe of employees leaving their positions and immediately establishing themselves in direct competition with their former employer. These were both service businesses. The former employees stole, client lists, equipment vendors and supplier names in an attempt to start their own businesses. This was absolutely devastating to the original businesses and the owners of those businesses. Both of the original businesses survived but under extreme stress and hardship for a long period of time.

I currently do not have any non-compete agreements in place because I have family members now taking on leadership and management roles. However, the last person I hired from outside the business to assume a management position in my company had an extensive non-compete.

I understand the intent of this proposed legislation but from an owner's perspective, I can't train, teach and support the growth of key employees without some protection for my business.

Thank you for your time and consideration of my comments.

Respectfully,

Marc Sherman
Owner
Stowe Mercantile
The Boutique