

THIS IS NOT LEGAL ADVICE

State Resources

Vermont Department of Labor

<https://labor.vermont.gov/>

Reviewing Your

VERMONT

Job Offer

Federal Resources

Equal Employment
Opportunity Commission

<http://www.eeoc.gov>

Does your job offer require that you sign a non-compete agreement?

As of this writing, Vermont has no statutory protections against non-compete clauses; a bill has been introduced in the legislature to change this. Under Vermont Supreme Court precedent, non-compete clauses are lawful but their enforcement depends upon case-by-case evaluation by the trial court. To determine whether a clause is unduly restrictive, the courts look to as to time and place. A non-compete agreement may be found unreasonable (1) if the restraint is greater than needed to protect the employer's legitimate interest, or (2) the employer's need is outweighed by hardship to the promisor and likely injury to the public.

Does your salary match the salary of your co-workers?

Vermont's Fair Employment Practices Act states that no employer may require an employee to refrain from disclosing the amount of his or her wages or from inquiring about or discussing the wages of other employees. However, "unless otherwise required by law, an employer may prohibit a human resources manager from disclosing the wages of other employees." Therefore, it appears that a prospective employee can ask other employees what they are being paid, and the employer cannot prohibit them from answering, but the employer itself need not disclose this.

Assuming your employment is "at will," can you negotiate for contractual protections?

Vermont law treats employment as at-will unless there is a written employment agreement that sets terms of employment. A prospective employee who is promised a minimum number of years of employment or is promised that discharge will only be for cause, to cite common examples, generally cannot rely on those promises unless they are reduced to writing. So, if you can negotiate for such written terms, you are free to do so. Also, on a case-by-case basis the courts recognize that employers sometimes issue employee handbooks that promise progressive discipline or dismissal only for just cause or even follow unwritten employment practices that adopt progressive discipline or just cause, and the courts will hold the employer to its handbook or its unwritten practices if the employee can prove that the employer intended that employees rely on those assurances or practices.

Have you properly excluded your individual inventions prior to accepting your job offer?

Vermont has no statutes or caselaw governing protection of an individual's prior inventions. However, under other Vermont legal principles, if a prospective employee wants to safeguard her invention against a claim that a new employer owns those rights, the employee would be well advised to obtain written acknowledgement of the invention by the employer prior to commencement of work.

Does your job offer require that you sign a forced arbitration agreement?

Vermont law allows employers to condition employment upon executing a written agreement to arbitrate employment disputes. If the Vermont statute applies because the employer is not engaged in interstate commerce, such agreements must exclude all constitutional and civil rights claims. If the federal statute on arbitration applies, it is likely that the courts will hold that the arbitration clause encompasses constitutional and civil rights claims. Finally, employers are not allowed to require claims of sexual harassment or sexual assault be brought in arbitration. Those types of claims may be brought in court, either individually or as collective or class claims, regardless of the existence of an arbitration agreement.

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