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

As of 2024, there is no Alaska state law that bans the practice of non-compete agreements. While the Alaska Supreme Court indicated that, "non-competition agreements are disfavored in the law..." DeCristofaro v. Sec. Nat'l Bank, 664 P.2d 167, 168-69 (Alaska 1983), it has also repeatedly upheld non-compete agreements related to employment. Additionally, Alaska Supreme Court precedent requires that even if a non-compete agreement ancillary to employment is overbroad, if it was drafted in good faith the Court will construe the agreement to render it enforceable when possible; Data Management v. Greene, 757 P.2d 62, 64 (Alaska 1988). The enforceability of a non-compete clause in employment will be determined on a case-by-case basis with a focus on the geographic and duration limitations; Metcalf Investments v. Garrison, 919 P.2d 1356, 1361 (Alaska 1996), but the assumption that a non-compete clause in Alaska will not be enforced may be ill-advised.

While not specifically relating to non-compete clauses, Alaska codified portions of the Uniform Trade Secrets Act (AS 45.50.910). This allows courts in specific circumstances to compel previous employees not to engage in similar employment as their prior employer, if this similar employment could receive a commercial advantage due to the employee's exploitation of a trade secret of the previous employer; ResQSoft v. Protech Solutions, 488 P.3d 979, 983 (Alaska 2021).

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

AS 18.80.220(a)(5) makes it unlawful for, "an employer to discriminate in the payment of wages as between the sexes, or to employ a female in an occupation in this state at a salary or wage rate less than that paid to a male employee for work of comparable character or work in the same operation, business, or type of work in the same locality...". This was simplified by the Alaska Supreme Court as requiring, "equal pay for substantially equal work;" Alaska State Comm'n for Human Rights v. State, Dep't of Admin., 796 P.2d 458, 461-62 (Alaska 1990). More broadly, AS 18.80.220(a)(1) makes it illegal for, "an employer...... to discriminate against a person in compensation... because of the person's race, religion, color, or national origin, or because of the person's age, physical or mental disability, sex, marital status, changes in marital status, pregnancy, or parenthood..."

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

Based on reviewed resources, it appears that it is not common to negotiate for additional contractual protections, but this is a question that should especially be reviewed for potential employees seeking executive level positions as well as positions that require an employee with specialized skills. For these situations, it is recommended to seek advice of an attorney. Employees may also be able to negotiate for various job benefits, such as training opportunities. Even when it is not possible to negotiate for benefits that are governed by company-wide policies or union contracts, such as perhaps retirement benefits or health benefits, it is often beneficial to compare and consider these benefits when assessing multiple job offers. Even if an employment contract is "at-will," an employee is not without contractual protections. Alaska law prohibits employers from enticing potential employees with false representations of the kind and character of the work to be done; AS 23.10.016. Furthermore, the Alaska Supreme Court has held that employee policy-handbooks can often times act as contractual modifications; Jones v. Central Peninsula General Hosp., 779 P.2d 783, 787 (Alaska 1989). However, these potential modifications are highly dependent on the facts of the case; Jones v. Central Peninsula General Hosp., 779 P.2d 783, 787 (Alaska 1989).

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

As an initial matter, inventor(s) are presumed to be owners of any patent rights that stem from their invention unless those patent rights have otherwise been properly assigned. With that said, it is not unusual for employers to ask employees to sign an agreement requiring employees to assign inventions created during the course of their employment to the employer. It is highly encouraged to consult with a legal profession when employees are looking to negotiate a contract that involves the assignment of individual inventions.

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

On March 3, 2022, President Biden signed into law the Ending Forced Arbitration of Sexual Assault and Sexual Harassment Act of 2021, prohibiting employers from enforcing predispute arbitration agreements and class action waivers that concern sexual harassment and sexual assault claims. As a result of this act, 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.

Additional materials related to Alaska specifically can be found at AK Stat § 09.43.010, Alaska's codification of the Uniform Arbitration Act.