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Employment Law Update: Employers Be Aware - Your Employee's Invention May No Longer Be Your Invention

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On April 1, 2018 New Jersey statute 34:1B 265(a) became law.

The statute provides that:

“any provision in an employment contract between an employee and employer, which provides that the employee shall assign or offer to assign any of the employee’s rights to an invention to that employer, shall not apply to an invention that the employee develops entirely on the employees own time, and without using the employer’s equipment, supplies, facilities or information, including any trade secret information, except for those inventions that:

- (a) relate to the employer’s business or actual demonstrably anticipated research or development; or
- (b) result from any work performed by the employee on behalf of the employer.

To the extent any provision in an employment contract applies, or intends to apply, to an employee invention subject to this subsection, the provision shall be deemed against the public policy of the state and shall be unenforceable.”

The statute also permits an employment agreement to require employees to disclose all inventions, this would allow the employer to review “any issues that may arise.”

Attorney

- Tracy Armstrong