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FOR IMMEDIATE RELEASE:

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Mercurys Coffee required baristas to sign agreements barring employment at any coffee shop within a ten-mile radius of one of their locations

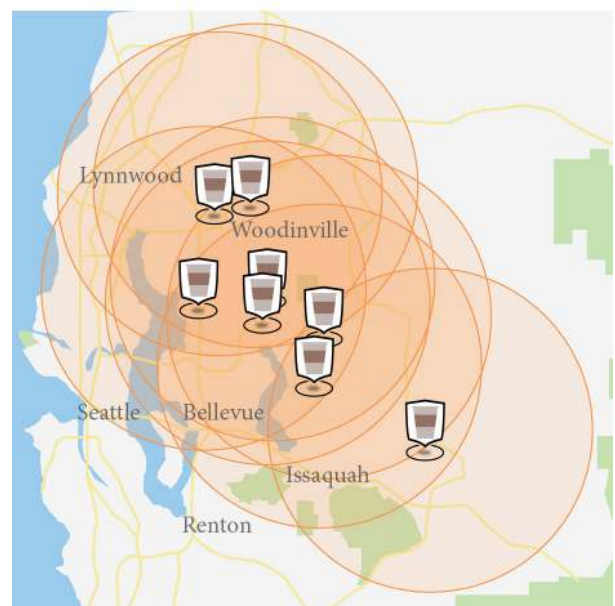
OLYMPIA — Attorney General Bob Ferguson today announced that King County coffee chain Mercurys Coffee will void all of its existing non-compete agreements. Today's announcement is the result of Ferguson's investigation into Mercurys Coffee's unfair use of non-compete agreements — the first of its kind for the Washington Attorney General's Office.

As a result of Ferguson's action, the company cannot require hourly baristas to sign non-compete agreements. In addition, the company must pay \$50,000 to reimburse the Attorney General's Office for its attorneys fees and costs associated with the investigation.

For years, Mercurys Coffee required all employees — including low-wage, hourly workers — to sign restrictive non-compete agreements. These agreements prevented employees from working at any coffee shop within 10 miles of a Mercurys Coffee location. The prohibition extended for eighteen months after leaving the company. This policy had the practical effect of preventing Mercurys baristas from working at most coffee shops in King County and parts of Snohomish County. For example, a barista working at Mercurys' Redmond location would need to drive at least 40 minutes to find another coffee shop where they were allowed to work.

Furthermore, the company enforced the agreements. Mercurys Coffee filed several lawsuits against workers who found employment at other coffee shops. Ferguson asserts that the company's non-compete practices limited employment options and mobility for workers and unfairly limited competition for labor.

MERCURYS COFFEE LOCATIONS



“Non-compete agreements targeting low-wage, hourly employees give companies an unfair advantage at the expense of workers,” Ferguson said. “Any company that makes their employees sign unfair contracts should expect to hear from my office. A coffee shop barista, or any low-wage worker for that matter, should not fear retaliation just for moving to another job that’s better for them.”

According to Ferguson’s [complaint](#), Mercurys’ non-compete agreements violated the Washington Consumer Protection Act, which prohibits companies from engaging in “unfair methods of competition.” Non-compete agreements limit low-wage workers’ options, mobility and ability to advocate for better pay and working conditions. This gives the employer an unfair advantage in competing for their labor — one of many reasons wages have stagnated even as employment rates have gone up.

Mercurys’ non-compete agreements

Mercurys Coffee has about 120 employees in eight locations in King County. The company required all employees, including those making near minimum wage, to sign non-compete agreements as a condition of their employment. Mercurys has employed more than 700 people in the last five years, all or most of whom were required to sign the non-compete agreement.

In general, these non-compete agreements prevented the former employee from working for any other local coffee shop within a 10 mile radius of any Mercurys location for 18 months after termination of employment. For a barista trying to find a job after working at a Mercurys, this agreement prohibited employment at coffee shops in much of King County, including Bellevue, Mercer Island, Kirkland, Sammamish, Redmond and most of Seattle.

For years, the non-compete agreements barred employment at all types of coffee shops. In 2016, Mercurys began including an exception allowing former baristas to work at coffee shops with more than 40 locations.

Under the non-compete agreements, employees were required to provide a copy of the agreement to any potential new employer — regardless of industry or geography — for two years after employment with Mercurys, six months longer than the non-compete restriction itself.

Mercurys has sued or threatened to sue former employees to enforce the non-competes. For example, Mercurys filed suit against one of its former baristas, a store manager who made \$17 per hour. The barista left Mercurys to work for a competitor about one and a half miles from a Mercurys location. Mercurys threatened to sue another former employee who left to work at a nearby Starbucks.

The Attorney General’s Office learned about Mercurys’ non-compete agreements after receiving a consumer complaint from one of the attorneys representing a former Mercurys barista.

Assistant Attorneys General Rahul Rao and Eric Newman are leading the case.

Washington’s legislature recently passed a bill explicitly limiting non-compete agreements. Among other protections, the bill makes unenforceable non-compete agreements with employees making less than \$100,000 a year. The bill, sponsored by Sen. Marko Liias, D-Mukilteo, and then-Rep. Derek Stanford, D-Bothell, goes into effect Jan. 1, 2020. This enforcement action is not directly related to the new law.

Going forward, even though the new law does allow non-compete agreements for employees making more than \$100,000 per year, this resolution requires Mercurys Coffee to get approval from the Attorney General’s Office for managers and other employees making that amount. If the company believes a non-compete agreement is necessary for an employee making more than

\$100,000 per year, the company must submit the agreement to the Attorney General's Office for approval within three days of presenting it to the employee.

Worker Protection Initiative

This action is part of Ferguson's ongoing Worker Protection Initiative, which also includes an effort to eliminate no-poach clauses — a practice that economists believe stagnates wages. As a result of this effort, 155 chains have signed legally binding commitments to end no-poach practices nationwide at an estimated 160,000 locations. The changes benefit millions of workers across the U.S.

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The Office of the Attorney General is the chief legal office for the state of Washington with attorneys and staff in 27 divisions across the state providing legal services to roughly 200 state agencies, boards and commissions. Visit www.atg.wa.gov to learn more.

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