**PROTECTION OF BUSINESS SECRET, TECHNOLOGY SECRET UNDER LABOR CODE 2019**

**The importance of protecting business secrets, technology secrets**

For production and business activities, enterprises, in addition to taking care of the development of daily production and business process, another issue that is also extremely important to pay close attention to is the issue of protection of business secrets, technology secrets. Because to create a different and quality product, the employers has spent their effort and money to research to find out the formula as well as put into production and business. When the products are on the market and they are welcomed so that the enterprises’ business activities are increasing. At that time, many other enterprises also want to have the formula and know-how to create the products for the business. If the formula, business secret, or technology is disclosed to another individual or enterprise, such individual or enterprise may develop similar products to compete with the enterprise in which the business secret or technology was stolen. Therefore, the protection of business secrets and technology secrets should be considered by enterprises.

A typical example: Mr. A works for company B, in charge of manufacturing products for Company B to supply products nationwide, Mr. B - is a key person in the production management for the company. Mr. A knows the secrets of production, business, and technology to create products. To ensure that Mr. A does not disclose the know-how to produce products, company B asks Mr. A to sign a commitment to keep company B's production and business information confidential.

**The issue of information confidentiality agreement under Labor Code 2019**

Because of the vital role of business secrets and technology secrets to production and business activities and the survival of enterprises, Article 21.2 of the Labor Code allows employers and employees to make a written agreement on the protection of business secrets and technology secrets when the employees’ job related to business secrets or technology secrets, which stipulate (i) confidential content, (ii) duration of protecting business secrets protection, technology secrets, and (iii) compensation in case of violation. Because there are no specific provisions on the above elements of a confidentiality agreement, the protection of business secrets and technology secrets depends on the agreement of the employer and the employee. However, the content of the agreement from the employer should also be reasonable, which ensures the employees’ freedom right in choosing the employment. By contrast, the employees also need to be aware of the responsibility to keep business secrets and technology secrets for the employers.

According to Article 118.2.đ of Labor Code 2019, the employers need to stipulate in the internal labor regulations on the protection of assets and business secrets, technology secrets, and intellectual property of the employers. Note that the employers must issue labor regulations, if employing 10 or more employees, the labor regulations must be in writing. The contents of the labor regulations must not be contrary to the labor law and relevant to the provisions of law.

In case the employees disclose business secrets, technology secrets, violating the intellectual property rights of the employers, then the employers may consider applying the penalty. Disciplinary handling of dismissal according to Article 125.2 of Labor Code 2019.

The duration for handling labor discipline for violations directly related to finance, property, disclosure of technology secrets, or business secrets of the employers, the duration for handling labor discipline is 12 months as prescribed in Article 123.1 of Labor Code 2019.

From the important feature of business secrets and technology secrets to enterprises, the issue of protecting business secrets and technology secrets has been paid closely attention and regulated in Labor Code 2019 so that employers and the employees have a basis for agreement and commitment to ensure the legitimate rights and interests of the employers and also demonstrate the responsibility of the employees for their workplace.