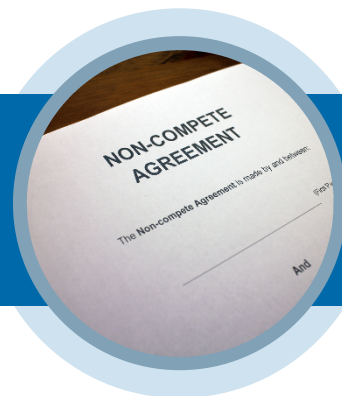


# LEGAL BLOG

JANUARY 13, 2023



## PROPOSED RULE CREATES NATIONWIDE BAN ON NON-COMPETE CLAUSES IN EMPLOYMENT CONTRACTS

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Non-compete clauses in employment contracts are subject to a wide variety of state laws that limit their effectiveness, but often leave room for reasonable restrictions when an employee leaves. A proposed new rule from the U.S. Federal Trade Commission (FTC) would bring uniformity to the law – by banning employers from entering into non-compete clauses with their workers, including independent contractors.

This massive sea change would go even further than simply banning non-compete clauses in future contracts. As proposed, the new rule would require employers to rescind existing non-compete clauses and actively inform employees and independent contractors that their agreement is no longer in effect.

According to the FTC, non-compete clauses bind around one in five American workers. At a time when labor costs have been rising, the FTC estimates the proposed rule would increase workers' earnings across industries and job levels by \$250 billion to \$296 billion per year.

The rule is currently subject to a public comment period, with the FTC seeking input regarding issues such as whether franchisees, senior executive, and high-wage workers should be covered by, or treated differently, under the rule.

Employers who currently rely on non-compete provisions will want to monitor this proposed rule and be prepared to respond to whatever final form it might take. Navigating the proposed disclosure requirements, potential exceptions to the rule, and its impact on hiring and retention of employees will require careful consideration and counsel.

Other measures to protect trade secrets and proprietary information may also become of even greater importance if non-compete clauses are banned. The FTC has indicated that other types of restrictive employment covenants, such as non-disclosure agreements and client or customer non-solicitation agreements, will generally not be covered by the proposed rule.

Whether the proposed rule becomes final, as currently written, or revised, the FTC's action suggests that now is a good time to review your options for protecting your business's critical information and resources – and perhaps taking advantage of a potential increase in labor mobility.

If you have questions or need assistance, our construction team is here to help. Jeffrey Yeager can be reached at [jyeager@hahnlaw.com](mailto:jyeager@hahnlaw.com).

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