

NYS Assembly Passes Bill Prohibiting Non-Compete Agreements, Next Step: Governor Hochul's Desk

Last week, the New York State Assembly passed a bill, which is now heading to Governor Hochul's desk for her signature, and if signed, will ban the use of non-compete agreements in New York. This ban will apply to all workers, including employees and independent contractors, and will apply prospectively only to agreements that are entered into or modified on or after the effective date, which will be thirty (30) days from the date the bill is signed into law. In other words, the proposed ban will not affect existing non-compete agreements.

While the proposed bill does not contain any explicit exception for non-compete agreements entered into in connection with the sale of a business, the bill's definitions of non-compete agreement and covered individual suggest that the restrictions are limited to the employment context.

Notably, the legislation permits other types of restrictive covenants, such as agreements that (i) establish a fixed term of service, (ii) prohibit disclosure of trade secrets or confidential and proprietary information, or (iii) prohibit solicitation of "clients of the employer that the covered individual learned about during employment."

If the bill is passed, it will enable covered workers to bring a civil action against any employer who violates the non-compete prohibition and expressly allows the court to order the following remedies: (i) injunctive relief, (ii) payment of liquidated damages up to a total of \$10,000 per violation for every covered individual, and (iii) compensatory damages, including "lost compensation, damages, reasonable attorneys' fees and costs."

While the Governor has not yet signed the bill and has not indicated whether she will sign such bill, she has previously openly supported limitations on non-compete agreements for low wage employees whose income falls below New York's median wage. As noted above, once signed, the law is scheduled to take effect 30 days after it is signed.

We will continue to monitor the status of this proposed legislation and will keep you apprised of any subsequent developments relating to this law.

For questions relating to this client alert, please contact:



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Amory represents employers and executives in all aspects of the employment relationship with a focus on counseling, litigation avoidance and, when necessary, litigation. Her counseling experience on behalf of a broad range of employers includes advice on issues ranging from discrimination and retaliation to wage-and-hour issues to compensation. She also regularly drafts, updates, and negotiates agreements and policies on behalf of clients concerning executive employment agreements, separation agreements, and other business arrangements.



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Rose is an employment lawyer whose practice primarily focuses on two main areas (advice and counseling, and employment law and related litigation) that use a wide-range of skills from employment law to assist clients in navigating complex employment matters in the workplace.

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