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Legislative Update

Virginia Expands Noncompete Ban for Low-Wage Employees

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Virginia has expanded its limited prohibitions on the use of noncompetition agreements for “low-wage employees,” which have been in place since 2020.

On March 24, 2025, Virginia Gov. Glenn Youngkin signed [Virginia Senate Bill 1218](#) into law, which expands and modifies [Virginia Code § 40.1-28.7:8](#).¹

The law provides that “[n]o employer shall enter into, enforce, or threaten to enforce a covenant not to compete with any low-wage employee,” which was previously defined as any employee whose average weekly earnings fell below the Virginia average weekly wage (for 2025, [\\$1,463.10 per week](#) or \$76,081.20 annually). *Id.* The new law expands that definition to include any employee “who, regardless of his average weekly earnings, is entitled to overtime compensation under the provisions of 29 U.S.C. § 207 for any hours worked in excess of 40 hours in any one workweek.” In other words, any employee who is *non-exempt* under the Fair Labor Standards Act (FLSA) will now qualify as a “low-wage employee” in Virginia who cannot be subject to a noncompete agreement.

Penalties for violations of the noncompete prohibitions remain the same: The Virginia Commissioner of Labor and Industry can impose a civil penalty of \$10,000 for each violation. There is also a private right of action, and if a court finds a violation, a plaintiff can recover reasonable costs, including for expert witnesses and attorneys’ fees.

The new law — which is not retroactive — takes effect on July 1, 2025. After that date, employers may not enter into new noncompetition agreements with low-wage employees. Existing noncompetes remain valid but cannot be renewed after July 1.

The new law also states that by July 1, employers must update their posted employee notices to include the new version of Virginia Code § 40.1-28.7:8 or an updated summary from the Department of Labor and Industry. Failing to do so will result in a written warning for the first violation, up to a \$250 civil penalty for a second violation, and up to a \$1,000 civil penalty for third and subsequent violations.

Moving forward, Virginia employers should carefully consider their noncompetition agreements and practices, and ensure that non-exempt employees are not subject to any new or renewed covenant not to compete after July 1. Employers should take particular care to review any existing covenants not to compete, as any renewal for a low-wage employee after July 1, 2025 could constitute a violation.

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¹ As of this publication, the online version of the Virginia Code has not yet been updated.