

Immediate Obligations for Employers With Noncompete, Customer Nonsolicitation Provisions for California Employees

January 18, 2024

A new California law, [Assembly Bill 1076](#), requires employers to provide notice to certain current and former employees by February 14, 2024, if their employment agreements contain provisions unenforceable under California law. Employers with California employees should promptly take steps to assess whether any of their California employees need to be sent notice required under AB 1076, as described below.

AB 1076

Signed by Gov. Gavin Newsom on October 13, 2023, and effective January 1, 2024, AB 1076 amends Section 16600 of the state's Business and Professions Code to "void the application of any noncompete agreement in an employment context, or any noncompete clause in an employment contract, no matter how narrowly tailored." The law provides that Section 16600 should be "read broadly," and, as such, its reach is not limited to noncompete provisions, but also includes customer nonsolicitation provisions and similar provisions unenforceable under California law.

Specifically, AB 1076 requires employers to send a notice to current and former employees for whom all of these conditions apply:

- They were employed by the company after January 1, 2022.
- They are located in California.
- They signed an employment agreement containing a noncompete provision, customer nonsolicitation provision or other similar provision that is unenforceable under California law.

The notice must inform employees that the provisions are void in California. This requirement applies even if the provision was enforceable in another state at the time it was executed, such as in the case where an employee signed an enforceable noncompete agreement in New York and has since relocated to California without signing a new agreement compliant with California law. The notice, which must be completed by February 14, 2024, must be written and delivered to the employee's last known postal address and email address. Failing to provide such notice constitutes a violation of the state's Unfair Competition Law, which carries civil penalties.

Next steps

Employers with California employees should immediately review any applicable agreements signed by those employees, including any employee who may have relocated to the state after signing an enforceable agreement outside of California. Cooley clients who may be affected by this law should consult with a member of Cooley's employment team or reach out to their primary contact at Cooley to determine whether any of their employees need to receive notice and, if so, to draft a compliant notice for affected employees.

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