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What Employers Should Know About Washington's New Ban on Noncompete Agreements

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On March 23, 2026, the Evergreen State became the latest state to enact a near wholesale ban on all employment noncompete agreements, effective June 30, 2027. The new law has significant implications for employers – voiding existing agreements retroactively, broadening the definition of what constitutes a now banned noncompete (including certain repayment agreements, such as sign-on or retention bonus agreements) and narrowing permissible nonsolicitation agreements. Below is a summary of the key changes, what remains permissible and steps employers should take to prepare.

The recent history and current landscape of Washington's noncompete law

Washington's crackdown on noncompetes began in 2020, when the state imposed restrictions – including a minimum compensation threshold for entering into a noncompete (equal to $126,858.83 as of January 1, 2026); an 18-month noncompete duration limit; a "garden leave" provision requiring employers to pay base salary during enforceable post-layoff periods; a prohibition on adjudication outside Washington or application of choice-of-law principles or substantive law of any jurisdiction other than the state of Washington; and moonlighting and anti-poaching provisions.

Initially, the restrictions applied only to traditional noncompetes and not to:

1. Confidentiality agreements.
2. Agreements not to solicit an employee to leave an employer.
3. Agreements not to solicit a current or former customer of an employer to cease or reduce the extent to which it is doing business with the employer.
4. Certain restrictions in connection with the sale of a business.

In 2024, the state again expanded its restrictions on noncompete agreements, broadening the definition of noncompetes to include agreements that directly or indirectly prohibit accepting or transacting business with a **potential** customer, clarifying that the customer nonsolicitation exception applies only to **current** customers. Further, the amended noncompete law narrowed the sale-of-business exception and required employers to provide notice of a noncompete "no later than the time of the initial oral or written acceptance of the offer."

Washington's new near-total ban

In enacting HB 1155, the legislature found that earlier reforms "did not go far enough," citing that noncompetition covenants "restrict workers' mobility, impede efforts to correct inequities, and significantly suppress workers' wages across all sectors." Washington joins several other states that have banned noncompetes, including California, Minnesota, North Dakota and Oklahoma.

Scope of the prohibition

The new ban voids nearly all noncompetes regardless of an employee's salary or when an employee entered into the noncompete agreement. Similar to California's law on noncompetes, Washington's amended noncompete law defines a noncompete broadly as "every written or oral covenant, agreement, or contract that prohibits or restrains an employee or independent contractor from engaging in a lawful profession, trade, or business of any kind." As of June 30, 2027, employers are prohibited from entering into, attempting to enter into, enforcing, attempting to enforce or threatening to enforce a noncompete. Employers will also be prohibited from **representing** that an employee or contractor is subject to a prohibited noncompete covenant (to such employee,

contractor or any third party).

Repayment agreements included in prohibition

Following the recent trend on restricting certain repayment agreements (e.g., New York, California), Washington also joins the bandwagon by expanding the definition of a noncompete to also include any agreement that "threatens, demands, requires, or otherwise effectuates that an individual return, repay, or forfeit any right, benefit, or compensation as a consequence of the individual engaging in a lawful profession, trade, or business of any kind." As a result of this expanded definition, agreements requiring repayment of retention bonuses, advanced payments or similar benefits upon departure may constitute prohibited noncompetes. Employers should review any such repayment agreement or provision to determine whether they fall within this expanded definition.

The law applies retroactively: All existing noncompete agreements, including repayment agreements, are void and unenforceable as of the effective date, regardless of when they were signed. However, legal proceedings filed before the effective date remain governed by the prior version of the law.

Notice requirement

Similar to California's AB 1076 playbook, which required employers to notify current and former employees that noncompete clauses in their agreements were void, HB 1155 imposes its own notice requirement. By October 1, 2027, employers must make "reasonable efforts" to provide written notice to all current and former employees and contractors with active noncompetes that their agreements are void and unenforceable. The legislative history of HB 1155 does not clarify what constitutes a "reasonable effort" to provide written notice. However, to err on the conservative side, employers may consider providing both physical mail and email notice to current and former employees that any active noncompete clauses in their agreements are void and unenforceable.

Permissible covenants

The following provisions are excluded from the noncompete ban:

- **Nonsolicitation agreements:** Nonsolicitation agreements remain enforceable in limited circumstances. Nonsolicitation of current employees is permissible and includes agreements prohibiting solicitation "of any employee of the employer to leave the employer." Further, current or prospective customer nonsolicitation provisions are permissible only if they:
    i. Are limited to preventing an employee from shifting business away from the employer where the employee established or **substantially developed a direct relationship with the customer or prospective customer "through the employee's work for the employer."**
    ii. Do not exceed 18 months following employment.

  Notably, unlike the current law, which prohibits **all** prospective customer nonsolicitation agreements, HB 1155 appears to now permit them, provided that they meet the foregoing requirements. Importantly, any agreement that directly or indirectly prohibits a worker from **accepting** or transacting business with a customer is treated as a noncompete – not a nonsolicitation agreement – and is therefore banned.

- **Confidentiality and trade secret agreements:** Agreements that protect confidential information, trade secrets or inventions are not affected by the ban.
- **Sale of business**: Noncompetes entered into in connection with the purchase or sale of the goodwill of a business remain enforceable, but only if the person signing the agreement holds an ownership interest of 1% or more in the business.
- **Franchise agreements:** A noncompete entered into by a franchisee in connection with a franchise sale that complies with applicable franchise law is still permitted.
- **Educational expense repayment:** Employers may still require repayment of out-of-pocket educational expenses, provided the agreement:
    i. Expires within 18 months of the employee's start date.
    ii. Limits repayment to a pro rata portion of the remaining time in that 18-month period.
    iii. Releases the employee from the repayment obligation if the employee separates for "good cause," as defined in the state's unemployment benefit statute.

Further, the noncompete ban does not affect Washington's existing moonlighting limitations under RCW

49.62.070, which remain unchanged. Under that provision, employers cannot restrict, restrain or prohibit employees earning less than twice the applicable state minimum wage (or, less than $34.26 an hour as of 2026) from working for another employer, working as an independent contractor or being self-employed. In addition, employers may continue to impose moonlighting restrictions on employees earning at or above that threshold.

Penalties for noncompliance

As before, persons “aggrieved” by a violation of the law have a private right of action. Further, the Washington attorney general may bring enforcement actions on behalf of affected workers. If a court or arbitrator finds a violation, the employer must pay the greater of the worker’s actual damages or a statutory penalty of $5,000, plus reasonable attorneys’ fees, expenses and costs. Notably, liability is triggered even when an employer merely attempts to enforce a noncompete or suggests that one still applies.

Next steps for employers

Because employers must provide written notice to all employees and contractors subject to an active noncompete by October 1, 2027 (regardless of when it was signed), employers should consider updating their practices before the June 30, 2027, effective date.

Employers can take the following steps to prepare for compliance:

1. **Audit all existing agreements.** Review all employment and contractor agreements, offer letters and related documents to identify provisions that may qualify as a noncompete under the law’s expanded definition. Beyond just noncompete and certain customer nonsolicitation agreements, this includes stay-or-pay agreements, training repayment agreement provisions (TRAPs) and other repayment obligations that could be construed as prohibited noncompetes.
2. **Plan for mandatory worker notices.** By October 1, 2027, employers must make reasonable efforts to notify current and former workers still within the term of a noncompete that those provisions are void. Employers should begin compiling a list of affected individuals, verifying contact information and identifying what “reasonable efforts” they will take to ensure compliance with this notice requirement. Note that this requirement also covers employees or contractors with repayment agreements that qualify as noncompetes under the law.
3. **Evaluate and strengthen alternative protections.** As noted, confidentiality and trade secrets agreements are not affected by the ban. Employers should assess whether such agreements, along with narrowly tailored nonsolicitation agreements, provide sufficient protection for the company’s legitimate business interests under the new law. Where insufficient, consult with counsel to strengthen these provisions and/or identify additional lawful strategies to safeguard the company’s interests.
4. **Update templates and policies.** Revise all standard employment agreement templates, confidential information and invention assignment agreement templates, restrictive covenant agreement templates, offer letter templates, contractor agreements and repayment agreements to remove or restructure any provisions that will be void under the new law.
5. **Train HR and management.** The law prohibits employers from representing to a worker that they are subject to a noncompete or attempting to enter into one. Employers should therefore ensure that HR personnel, managers and recruiters understand these broad prohibitions, as even an informal suggestion of enforceability could expose the company to liability.
6. **Consider enforcement of existing noncompetes/repayment agreements.** As noted above, the amended noncompete statute will not apply to legal proceedings commenced before June 30, 2027. Therefore, as such date approaches, employers may consider whether it may be prudent to commence litigation to enforce noncompete agreements (which, as emphasized above, also include repayment agreements) and to otherwise address breaches of any such agreements that have occurred before June 30, 2027.

If you have any questions about these laws or how to comply, please contact your Cooley employment lawyer or one of the lawyers listed below.

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