

# District of Columbia to Implement Broad Restrictions on Non-Compete Agreements

Article By:

Amy L. Bess

---

On July 27, 2022, the District of Columbia substantially limited employers' use of non-compete agreements in D.C. (the "Non-Compete Clarification Amendment Act of 2022"). The original bill (the "Ban on Non-Competes Amendment Act of 2020") would have resulted in a near total ban on non-compete agreements, but in response to complaints from the business community, the City Council instead limited non-competes to those employees deemed "highly compensated."

The law also prohibits D.C. employers from imposing "anti-moonlighting" restrictions on employees unless the employer reasonably believes that such a side engagement will result in the disclosure of the employer's confidential or proprietary information or pose a conflict of interest. Unless blocked by Congress (which is not anticipated), the new law will take effect on October 1, 2022.

The following are some key takeaways for employers:

- Employees are covered if (i) they spend more than 50% of their work time for an employer in D.C., or (ii) their work for an employer is based in D.C., they spend a "substantial amount" of their work time for that employer in D.C., and they do not spend more than 50% of their work time for that employer in another jurisdiction.
- Covered employees who make less than \$150,000 or "medical specialists" who make less than \$250,000 in total compensation per year can no longer be subject to a non-compete restriction.
- Total compensation includes annual salary or hourly wages, as well as bonuses, commissions, overtime premiums, vested stock and other payments, but excludes any non-cash fringe benefits. A "medical specialist" is a licensed physician who has completed a medical residency, and who is primarily engaged in the delivery of medical services.
- "Non-compete provisions" include those contained in a written agreement or workplace policy that prohibit an employee from performing work for another person or entity for pay or operating their own business – both during and following employment with the employer. Thus, they include anti-moonlighting policies in an employee handbook or agreement, subject to certain limitations.

- “Non-compete provisions” *do not include* those: (i) contained in an agreement between the seller and purchaser of a business that prohibit the seller from competing with the buyer for a period of time post-sale; (ii) that restrict an employee from disclosing, using, selling or accessing the employer’s confidential or proprietary information; or (iii) that prohibit an employee from being paid for performing work for another person or entity during the employee’s employment because the employer reasonably believes that such work will result in the disclosure of the employer’s confidential or proprietary information, pose a conflict of interest, or impair the employer’s ability to comply with a law, regulation, contract or grant agreement.
- The duration of such restrictions cannot exceed two years for “medical specialists” and one year for all other covered employees earning \$150,000 or more in total compensation annually.

Employers will be required to issue notices to employees on whom non-compete agreements will be imposed, and to employees subject to workplace policies that limit “moonlighting.” Additionally, employers are required to provide the non-compete provision in writing at least 14 days before the employee starts work or is expected to sign the agreement. The law prohibits retaliation against an employee who asks about refuses to agree to or comply with a non-compete provision that is prohibited by the new law, or who requests a copy of a non-compete agreement the employee executed.

Employers who choose to implement non-compete agreements after October 1, 2022 for their highly compensated employees should ensure that such agreements (i) clearly specify the roles, services, industries or competing entities the employee will be restricted from, (ii) contain clear geographic limitations on their restrictions, and (iii) are reviewed by a D.C. employment lawyer to ensure legal compliance, as well as to assist in crafting appropriate notice language that complies with the new law.

© 2025 Vedder Price

---

National Law Review, Volume XII, Number 242

Source URL: <https://natlawreview.com/article/district-columbia-to-implement-broad-restrictions-non-compete-agreements>