

New York City to Consider Its Own Ban on Employer Noncompete Agreements Following Governor's Veto

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New York City lawmakers are considering a measure that would make the city the latest jurisdiction to ban noncompete agreements between employers and their employees, after Governor Kathy Hochul in December 2023 vetoed a statewide ban passed by lawmakers.

Quick Hits

- The New York City bill would prohibit employers from making workers sign noncompete agreements, including unpaid workers and independent contractors, and employers would be required to rescind existing noncompete agreements.
- Violators of the proposed bill would be subject to a potential \$500 civil penalty per violation.
- The bill does not contain an exception for high-income earners or executives.

Introduced in the New York City Council on February 28, 2023, [Int. No. 0140-2024](#) would amend the city administrative code to prohibit employers from entering into or attempting to enter into noncompete agreements with workers, including unpaid workers and independent contractors. The bill would further require employers to rescind all noncompete agreements that predate the bill's effective date. Employers that violate the ban would be subject to a potential \$500 civil penalty "per violation."

Background

In 2023, New York state lawmakers passed a bill that would have banned most employment noncompete agreements across the state. However, Governor Hochul [vetoed that bill](#), citing the [need for a carve-out](#) to allow noncompete agreements with high-income earners because of the state's "highly competitive economic climate."

Both the New York City and state bills come in the context of a wave of states, municipalities, and federal regulators, namely the [Federal Trade Commission](#) (FTC), considering similar measures to prohibit or restrict the use of noncompete agreements in employment.

New York City Bill

New York City's Int. No. 0140-2024 would define "non-compete agreement" broadly to encompass any "agreement between an employer and a worker that prevents, or *effectively prevents*, the worker from seeking or accepting work for a different employer, or from operating a business, after the worker no longer works for the employer" (emphasis added).

Further, the bill would apply to "worker[s]" meaning any person who works for an employer "whether paid or unpaid," including "individual[s] classified as ... independent contractor[s]."

Specifically, the bill would prohibit employers from:

- "enter[ing] into, or attempt[ing] to enter into a non-compete agreement with a worker";
- "maintain[ing] a non-compete agreement with a worker"; and
- "represent[ing] to a worker that the worker is subject to a non-compete agreement clause" when "the employer has no good faith basis to believe that the worker is subject to an enforceable non-compete agreement."

Any noncompete agreement entered into in violation of the bill would be made unenforceable. The bill would require employers to rescind any noncompete agreements entered into with employees no later than the date that the bill would go into effect, which would be "120 days after it becomes law."

Another key piece of the bill is that it would make violators subject to a potential \$500 civil penalty *per violation* enforced by the Department of Consumer and Worker Protection (DCWP) Office of Labor Policy & Standards (OLPS).

Next Steps

If enacted, Int. No. 0140-2024 would have serious implications for employers as it would on its face prohibit almost all forms of noncompete agreements or restrictive covenants that restrict workers' ability to seek new employment after leaving an employer. The bill is in its early stages and it is not yet clear whether it will be passed by the City Council.

Ogletree Deakins' [New York office](#) will continue to monitor developments and will provide updates on the [New York](#) and [Unfair Competition and Trade Secrets](#) blogs.

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