

Fast Facts on the New FTC Rule Banning Non-Compete Clauses

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On April 23, 2024, the Federal Trade Commission (“FTC”) issued a new rule banning non-compete clauses in employment agreements. The rule was issued under the Federal Trade Commission Act, which empowers the FTC to promulgate trade rules that define acts or practices which are unfair or deceptive acts or practices in or affecting commerce. The final rule provides that it is an unfair method of competition for persons to, among other things, enter into non-compete clauses with workers on or after the final rule’s effective date.

What to Know:

- The rule reflects a comprehensive ban on new non-competes with all workers.
- The rule has a 120-day waiting period until becoming effective.
- Existing non-compete clauses, except for those affecting senior executives, will not be enforceable after the effective date.
- Existing non-compete agreements with senior executives can remain in force and are unaffected by the new rule.
- Employers must provide applicable workers with existing non-competes notice that the provisions are no longer enforceable.
- Non-compete agreements entered into between parties as part of a bona fide sale of a person’s ownership interest in a business are excluded from this ruling.
- The rule will not apply where a cause of action related to a non-compete clause accrued prior to the effective date.

The new rule does not specifically affect non-solicitation or confidentiality clauses. We expect to see significant litigation over the impact of this rule as well as the FTC’s ability to issue the rule. If you are an employer that has a practice of incorporating non-compete clauses into its employment agreements, call us for a consultation.

Please note that this blog provides general information regarding the FTC rule on non-competes.

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