

Legal Alerts

Washington State Enacts Sweeping Ban on Noncompetition Agreements

05.27.26 05.27.26

Washington state recently took a dramatic and expansive step to regulate restrictive covenants, enacting Engrossed Substitute House Bill 1155 (ESHB 1155), which will largely prohibit the use of noncompetition agreements for Washington-based workers when it goes into effect on June 30, 2027. The new law renders virtually all noncompetition agreements void and unenforceable, regardless of when they were signed, and applies broadly to employees and independent contractors. The statute also requires employers by October 1, 2027, to make reasonable efforts to notify current and former workers that their noncompetition agreements cannot be enforced.

Key Provisions of ESHB 1155

- **Almost all noncompetition agreements with employees and contractors will be void.** The law eliminates the prior income thresholds, making its restrictions apply at all levels. Nearly all noncompetition agreements for Washington-based workers, including employees and independent contractors will be void, regardless of when the agreements were signed. Employers may not enforce, attempt to enforce, threaten enforcement, or represent that a worker is subject to a noncompetition agreement.
- **Performers are subject to additional restrictions.** The law separately addresses noncompetition agreements between performers and performance spaces, or third-party schedulers, extending the ban to these arrangements as well.
- **Expanded definition of noncompetition agreements.** ESHB 1155 treats any provision that limits a worker's ability to work as a noncompetition agreement, including restrictions on joining competitors, doing business with customers, engaging in a lawful profession or business, or requiring repayment, forfeiture, or "stay or pay" arrangements tied to post-employment competition.
- **Narrow categories of agreements remain permitted.** The law carves out a limited set of agreements that are not treated as prohibited noncompetition covenants: bona fide non-solicitation agreements (limited to 18 months and restricted to customers or prospects with whom the employee developed a direct relationship through work, with no restriction on accepting or transacting business); confidentiality agreements and trade secret protections; sale-of-business covenants (but only where the individual holds an ownership interest of one percent or more); qualifying educational expense repayment agreements; and compliant franchise covenants. All exceptions are narrowly construed.
- **Employer obligations.** Employers may not offer or seek to enforce any prohibited noncompetition agreement by no later than June 30, 2027. Employers must also notify current and former workers that

any existing prohibited noncompetition agreements are unenforceable by October 1, 2027.

- **Compliance and Penalties.** Failure to comply can result in liability for the greater of actual damages or \$5,000, plus attorney fees and costs. Liability can arise even if the employer does not sue to enforce a noncompete; merely attempting to enforce, offering or threatening to enforce a noncompetition agreement, or representing that a worker is subject to one, is enough to trigger a violation.

Key Takeaway. Noncompetition agreements for employees and contractors are effectively eliminated in Washington. Employers will need to revise employment agreements and develop alternative strategies, such as non-solicitation, confidentiality and trade secret protections, to safeguard legitimate business interests.

Recommended Next Steps

ESHB 1155 may not take effect until 2027, but employers should act now to address compliance and minimize liability. Key steps include:

- **Reviewing agreements.** Examine all employment, contractor, equity, bonus and other agreements for clauses that could be considered noncompetition provisions under the expanded definition.
- **Updating templates and policies.** Revise offer letters, employment agreements, and repayment or forfeiture provisions to prevent unintended noncompetition obligations.
- **Planning for notice.** Develop a process to notify affected current and former workers by October 1, 2027, that prohibited noncompetition agreements are void and unenforceable.
- **Training staff.** Make sure HR and management understand that offering, enforcing, threatening, or implying a noncompetition agreement applies can create liability.
- **Documenting compliance.** Keep records of reviews, updates and notices to demonstrate good-faith efforts.
- **Considering alternatives.** Rely on compliant non-solicitation, confidentiality and trade secret protections to safeguard business interests without violating the law.

Evolution of Washington's Noncompete Law

Washington's regulation of noncompetition agreements has changed rapidly in recent years, with the legislature steadily imposing greater restrictions on post-employment agreements. Prior to 2020, courts generally enforced noncompetition agreements if they were reasonable in scope, duration and geographic reach, and necessary to protect legitimate business interests. However, in 2019, the legislature and the governor adopted House Bill 1450 (HB 1450). Effective January 1, 2020, HB 1450 marked a significant shift from Washington's prior common law approach. Among its key reforms, the bill introduced minimum compensation thresholds, rendering noncompetition agreements void and unenforceable against employees earning less than \$100,000 per year, and independent contractors earning less than \$250,000 per year, from the party seeking enforcement-thresholds that have been adjusted annually for inflation by the Washington Department of Labor and Industries.

HB 1450 also imposed a presumptive 18-month limit on noncompetition agreements and required written disclosure of the terms before employment begins. The law also required employers to provide independent consideration (usually a payment or other financial benefit) to existing employees in exchange for signing noncompetes, mandated "garden leave" compensation for laid-off employees covered by noncompetes, and prohibited out-of-state choice-of-law and venue clauses that would circumvent Washington protections. In addition, the statute created a right to sue and collect damages, statutory penalties, attorneys' fees and costs for violations, including where a court modifies or partially enforces a noncompliant agreement. Further, while HB 1450 preserved certain categories of agreements, such as confidentiality and trade secret protections, the law limited non-solicitation provisions and restricted employers' ability to limit employees' outside employment. Overall, the 2020 law established a detailed statutory scheme that significantly curtailed the use of noncompetition agreements in Washington.

Building on the 2020 framework, Washington further tightened restrictions with amendments to [RCW 49.62](#), effective June 6, 2024. The amendments narrowed the permissible scope of non-solicitation agreements to current customers only, eliminating the common practice of broadly restricting solicitation of past, present or prospective customers.

With the passage of ESHB 1155, Washington's trend toward stricter regulation of noncompetition agreements has reached its most significant point. If you have any questions about ESHB 1155 and its potential impact, please contact our [Labor, Employment & Immigration](#) team.

The information above involves complex legal considerations and is provided for general informational purposes only. It does not constitute legal advice. For guidance on specific legal matters, you should consult with an attorney. Foster Garvey requires engagement letters to establish the attorney-client relationship for new (or returning) clients and requires written confirmation to expand the scope of representation for existing clients.

Authored by

[Kenzie Kinsella](#)

[Associate|Seattle](#)

[206.447.8983](tel:206.447.8983) kenzie.kinsella@foster.com

[Steven R. Peltin](#)

[Principal|Seattle](#)

[206.447.6215](tel:206.447.6215) steve.peltin@foster.com

[Jared Van Kirk](#)

[Principal|Seattle](#)

[206.816.1372](tel:206.816.1372) jared.vankirk@foster.com

Related Areas

- [Labor, Employment & Immigration](#)