

New Jersey Legislature Introduces New Bill to Ban Non-Competes

May 28, 2025

On May 19, 2025, the New Jersey Legislature proposed a bill (S 4385) that would ban and retroactively eliminate all non-compete agreements, with a few limited exceptions. The Bill, which is currently pending in the Senate Labor Committee, combines elements of a prior bill (A1650) (discussed [here](#)) and the proposed FTC Rule (discussed [here](#) and [here](#)).

As currently drafted, the Bill would preclude an employer from enforcing or attempting to enforce a non-compete, including a non-compete that is already in effect, against any worker. A "worker" is defined broadly to include any individual who works or previously worked for an employer by providing a service to, or on behalf of the employer. A "worker" includes, among others, employees, independent contractors, unpaid interns, and volunteers.

One carveout is for existing non-competes with Senior Executives--defined as workers who are in policy-making positions and who are paid \$151,164 or more per year in total compensation. Existing non-competes with Senior Executives would be enforceable only if, among other things, the employer pays the Senior Executive 100% of his or her pay and fringe benefits during the restricted period, and the noncompete is (a) narrowly tailored to protect the legitimate interests of the employer, (b) is not longer than 12 months, (c) is limited to the geographic area where the Senior Executive worked or had a material presence or influence, and (d) is related to the Senior Executive's work. Many Senior Executives' existing non-competes would not fit these criteria and would not be enforceable.

Within 30 days of the enactment of the Bill, employers would be required to prove a "clear and conspicuous notice" to any worker with a non-compete, informing the worker that the non-compete will not be, and cannot legally be, enforced.

The ban on non-competes would not apply to agreements entered into pursuant to a bona fide sale of a business entity, of the employer's ownership interest in a business entity, or of all or substantially all of a business entity's operating assets. It would also not apply in situations where a cause of action related to a non-compete accrued prior to the effective date of the statute.

In addition to banning non-competes, the Bill would preclude and void existing no-poach agreements, pursuant to which employers agree not to hire certain workers.

The Bill would also create a civil cause of action for workers subject to, or affected by, a non-compete clause or no-poach agreement. The Court would have jurisdiction to void the agreement, enter injunctive relief, order payment of liquidated damages up to \$10,000, and award lost compensation, damages, reasonable attorneys' fees and costs.

The Bill has a long way to go before it is passed into law, but employers and workers should be aware of the Legislature's efforts to eliminate or limit non-competes and no-poach agreements, which would constitute a significant shift in New Jersey law.