

EMPLOYER LAW BLOG

NON-COMPETE ALERT: New CA Law Against Non-Competes Grows in Reach

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Most non-compete agreements have been declared void in California for many years. Nonetheless, California laws against non-competes have continued to develop and grow stronger in recent years. For the most part, such developments have only affected employers and businesses within California.

However, this seems to be changing with a recent bill in California—S.B. 699—that was signed into law in September 2023. The law is set to take effect on January 1, 2024. Legislative findings behind the new law emphasize out-of-state employers as presenting a “challenge” to California employers by attempting to preclude the hiring of former employees in California through use of non-compete agreements entered into outside of California.

With that “challenge” in mind, the new law appears to extend outside of California insofar as it renders void and unenforceable non-competes in California, regardless of where and when the non-competes were signed. In other words, even if a non-compete is executed lawfully in a state such as Missouri and subject to Missouri law, under which non-competes are still valid and enforceable, it cannot be enforced *in California* against the employee.

Making matters worse, this new law creates a private right of action for employees to enforce the law by filing lawsuits to challenge any such attempted enforcement. A prevailing party in such action may also recover actual damages, injunctive relief, and attorneys' fees and costs. The net effect of these new provisions is to deter or prevent all employers from seeking to enforce non-competes (even lawful ones under the laws of other states) in California against any employee.

Employers with current or former employees subject to non-compete restrictions who live and/or work in California should take immediate note of this new law. In this day and age of remote work, this new law will likely have significant consequences for many employers and businesses outside of California. So do not hesitate to reach out to a member of our Labor & Employment Team for further direction on how this new law may impact your current workforce or work-related agreements.