



Rhode Island Noncompete Legislation

Hinckley Allen Labor & Employment

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On July 15, 2019, Governor Gina Raimondo signed into law the Rhode Island Noncompetition Agreement Act (“the Act”). Rhode Island joins a growing list of states (including neighboring [Massachusetts](#)) that have enacted legislation to significantly restrict the use of noncompetition agreements.

The Act applies to all employers except for the state, municipalities, public corporations, and charitable organizations.

The Act prohibits noncompetition agreements for the following types of employee:

- One who is non-exempt under the Fair Labor Standards Act;
- An undergraduate or graduate student who interns or is employed in a short-term relationship while enrolled at an educational institution;
- An employee 18 or younger; and
- A low-wage employee (i.e., one whose average annual earnings are not more than 250 percent of the federal poverty level as established by the U. S. Department of Health and Human Services federal poverty guidelines, which comes to approximately \$31,225 for the year 2019).

Additionally, although the Act prohibits pure noncompetition agreements for the above-listed groups, the Act explicitly allows the following types of agreement to continue to be enforceable:

- Non-solicitation agreements for employees;
- Non-solicitation agreements for customers, clients, and vendors;
- Noncompetition agreements made in connection with the sale of a business;

- Noncompetition agreements made outside of an employment relationship;
- Nondisclosure or confidentiality agreements;
- Invention assignment agreements;
- Noncompetition agreements made in connection with separation of employment (provided that the employee is expressly granted seven business days to rescind acceptance);
- Agreements by which employees agree not to reapply for employment; and
- Forfeiture agreements (i.e., agreements that impose adverse financial consequences as a result of termination of an employment relationship), except forfeiture for competition agreements, which are prohibited.

The Act is to take effect January 2020, which will be six (6) months after its passage. In the meantime, employers should review their current noncompetition agreements to determine whether they will be compliant with the Act. The Act does not indicate whether any noncompetition agreements already in place will remain intact after the new law takes effect. Although employers could argue that the Act should not be applied retroactively, Rhode Island courts might take the new Act into consideration in balancing the equities for enforcement purposes.

Moreover, although the Act does not specify what penalties may result if an employer tries to have employees sign prohibited noncompetition agreements, trying to enforce any prohibited noncompetition agreement would likely be costly in and of itself.

For more information on compliance with the Rhode Island Noncompetition Agreement Act, please contact one of Hinckley Allen's Labor & Employment [attorneys](#).

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