

BLOGS

Legislation and Rulemaking

Minnesota Prohibits Certain Restrictive Covenants in Franchise Agreements

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Reflecting a shifting national landscape on restrictive covenants, the Minnesota Legislature recently adopted [legislation](#) that prohibits franchisors from placing certain nonsolicitation and no-poach restrictions in franchise agreements. Effective immediately, franchisors subject to Minnesota law are prohibited from restricting franchisees from soliciting or hiring an employee from another franchisee of the same franchisor or from the franchisor itself. "Employee" is defined broadly to include independent contractors. The legislation also voids any existing provision that violates these new prohibitions.

Franchisors must also, within one year of the May 25, 2023, effective date, amend existing franchise agreements to (1) remove any restrictive employment agreement that violates the new law or (2) sign a memorandum of understanding acknowledging that any existing provisions that violate the new law are void and unenforceable and provide notice to the franchisee of their rights and obligations under the new law. The legislation does not further spell out what the notice must include. The new law is codified in Section 181.991 of the state's employment code and not in Minnesota Statutes Section 80C, concerning franchising.

The legislation reflects a broader trend in both the state, which also adopted other new restrictions on other employment noncompetes that apply to *all* employees (see a description of this broader law [here](#)), and nationwide, as the FTC considers rulemaking banning restrictive covenants, while the State of Washington adopted similar legislation in 2020. See Wash. Rev. Code Ann. § 49.62.060 (West).

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