

E-ALERT: Action Required – Rhode Island passes Non-Compete Law effective January 15, 2020



Background

Effective January 15, 2020, employers will need to comply with the Rhode Island Noncompetition Agreement Act. The new law will impact all employers and employees within the state of Rhode Island and aims to protect low-income individuals and several other protected classes.

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Summary

The new law will make noncompetition agreements unenforceable against individuals who fall into the following categories:

- Employees that are nonexempt under the Fair Labor Standards Act;
- Undergraduate or graduate students participating in a paid or unpaid internship or the like;
- Employees aged 18 or younger; and
- Low-wage employees.

(For purposes of this alert, low-wage employees are those whose average annual earnings are less than or equal to 250% of the federal poverty level; or, as of today, less than or equal to \$31,225)

Items Not Affected

A noncompetition agreement is between an employer and employee under which the employee agrees not to engage in certain activities that are competitive with the employer after the relationship has ended. Those items not affected by the new law include:

- Covenants not to solicit or hire employees of the employer;
- Nondisclosure or confidentiality agreements;
- Invention assignment agreements;
- Agreements not to reapply for employment to the same employer after termination; or
- Covenants not to solicit or transact business with customers, clients, or vendors of the employer.

Even under the new law, an employer may enter into an agreement with an employee not to share any trade secret information regarding the employer, or employment, including after the employment relationship ends.

Employer Next Steps

1. In the next three months before this law takes effect, employers should work with their outside employment council to review their current non-compete agreement. HR Knowledge has an employment attorney we can recommend to you if you do not have a current firm you are engaged with.
2. Update your Onboarding process to ensure employment agreements, offer letters, etc. are valid starting on January 15, 2020 and that you are not requiring employees who are protected under this new law to sign agreements that would not be able to be upheld or will no longer be valid come January.



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