

VIRGINIA

Virginia Expands Noncompete Ban

Provided to you by **Employco USA, Inc.**

On March 24, 2025, Virginia [amended](#) its restrictive covenant law to prohibit employers from entering into noncompete agreements with employees who are eligible for overtime pay under the federal Fair Labor Standards Act (FLSA). The amendment takes effect **July 1, 2025**.

Background

Currently, Virginia's restrictive covenant law prohibits employers from entering into noncompete agreements (i.e., an agreement that restrains, prohibits or otherwise restricts an individual's ability to compete with their former employer) with "low-wage employees," who are defined as workers whose average weekly earnings are less than the average weekly wage of Virginia (as determined annually). In 2025, Virginia's average weekly wage is \$1,463.10 per week or about \$76,081 per year.

Overview of Amended Law

Effective July 1, 2025, "low-wage employees" will also include employees who are entitled to overtime pay under the FLSA for any hours worked over 40 in a given workweek, regardless of their average weekly earnings (also known as "nonexempt employees"). In general, employees are classified as nonexempt unless they satisfy the requirements to qualify for a specific FLSA exemption.

Consequently, beginning July 1, 2025, Virginia employers are prohibited from entering into noncompete agreements with employees who either:

- Earn less than \$1,463.10 per week (or the current average weekly wage in Virginia); or
- Are classified as nonexempt from the FLSA's overtime pay requirements.

The amendment does not apply to agreements entered into prior to July 1, 2025.

Next Steps for Employers

Employers may consider reviewing and updating existing employee agreements or form agreements (such as new hire paperwork) provided to nonexempt employees to ensure that they do not contain any noncompete provisions that may violate the amended law. Employers may also consider a review of employee classification to ensure that all employees are properly classified.

Highlights

March 24, 2025

Virginia amends its restrictive covenant law to ban noncompete agreements with workers eligible for overtime pay under the FLSA.

July 1, 2025

The amended law takes effect.

***Effective July 1, 2025,
Virginia employers
may not enter into
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