

Department of Legislative Services
Maryland General Assembly
2025 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1288
Economic Matters

(Delegate Rose, *et al.*)

Labor and Employment - Noncompete and Conflict of Interest Provisions

This bill specifies that a valid noncompete or conflict of interest provision in an employment contract or a similar document or agreement applies only “on separation from the employer.”

Fiscal Summary

State Effect: The bill does not materially affect State operations or finances.

Local Effect: The bill does not materially affect local government operations or finances.

Small Business Effect: Potential meaningful.

Analysis

Current Law: For employees described below, a noncompete or conflict of interest provision in an employment contract or a similar document or agreement restricting the ability of an employee to enter into employment with a new employer or to become self-employed in the same or similar business or trade is null and void as being against the public policy of the State. The provision is null or void whether or not the employer and employee entered into the employment contract or similar document or agreement in the State. This provision applies to an employee who:

- earns compensation equal to or less than 150% of the State minimum wage rate;
- for employment contracts executed on or after July 1, 2025, (1) is required to be licensed under the Health Occupations Article; (2) provides direct patient care; and (3) earns \$350,000 or less in total annual compensation; or

- is licensed as a veterinary practitioner or veterinary technician as specified in the Agriculture Article.

This provision does not apply to an employment contract or a similar document or agreement with respect to the taking or use of a client or patient list or other proprietary client-related or patient-related information.

Federal Trade Commission – Rule on Noncompete Clauses

The Federal Trade Commission (FTC) issued a final rule on April 23, 2024, making existing noncompete clauses for the vast majority of workers no longer enforceable after the rule’s effective date. However, under the rule, existing noncompete clauses for senior executives can remain in force. Employers, however, are prohibited from entering into or enforcing new noncompete clauses with senior executives. The final rule defines senior executives as workers earning more than \$151,164 annually and who are in policymaking positions.

On August 20, 2024, before the final rule would have taken effect on September 4, 2024, the U.S. District Court for the Northern District of Texas granted summary judgment to the plaintiffs in *Ryan, LLC v. FTC*, setting aside the FTC’s noncompete rule. The FTC filed a notice of appeal in the Fifth Circuit Court of Appeals. While on appeal, the district court’s order vacating the FTC’s noncompete rule remains in effect, although it does apply nationwide.

Small Business Effect: Although noncompete clauses are typically reserved for instances involving separation from employment, the bill potentially allows employers to restrict their employees’ ability to hold second jobs in the same industry.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years; however, legislation with similar provisions has been proposed. For example, see SB 1182 and HB 1388 of 2024 (enacted as Chapter 378 of 2024).

Designated Cross File: SB 658 (Senator Ready) - Finance.

Information Source(s): Judiciary (Administrative Office of the Courts); Maryland Department of Labor; Department of Legislative Services

Fiscal Note History: First Reader - February 17, 2025
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