

Virginia Enacts New Restrictions on the Use of Noncompetes

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Employers will soon be obligated to provide employees with severance benefits if they want to have an enforceable noncompete in Virginia and they also will be prohibited from entering into noncompetes with health care professionals, except in connection with the sale of a business. These obligations and several other new restrictions are part of [Senate Bill 170](#) and [House Bill 627](#), landmark legislation recently passed by the General Assembly and slated to take effect on July 1, 2026.

The new noncompete legislation applies to *all* employees and categorically bans noncompetes for almost all health care professionals, in sharp contrast to Virginia's existing noncompete statutes, which currently cover only low-wage employees, including hourly employees. Moreover, because of recent case law from the Court of Appeals of Virginia in *Sentry Force Security, LLC v. Barrera*, 2026 WL 200848 (Va. Ct. App. Jan. 27, 2026), the new legislation will also apply to covenants prohibiting the solicitation or hiring of fellow employees. As a result, Virginia employers need to be prepared for these changes, which apply to all agreements entered, amended, or renewed on or after July 1, 2026.

SB 170 and HB 627 currently await Governor Abigail Spanberger's signature, which must occur by April 13, 2026, or the legislation will automatically become law.

Key Features of SB 170

SB 170 significantly expands the commonwealth's restrictions on covenants not to compete:

- **Severance Requirement:**
The bill prohibits enforcement of all covenants not to compete that are entered into, amended, or renewed on or after July 1, 2026, if the employer terminates the employee's employment without cause and does not provide severance benefits or other monetary payment to the employee.
- **Disclosure of Severance Requirement:**
Any severance benefits or other monetary payment that will support enforcement of a covenant not to compete must be disclosed to the employee at the time the covenant is executed.
- **Exception for Termination for Cause:**
The prohibition does not apply when an employee is discharged for cause. However, SB 170 does not define "for cause" or "severance benefits," and it does not establish a minimum severance or payment amount.
- **No Sale-of-Business Exception:**
SB 170 does not expressly include an exception for covenants not to compete entered into in connection with the sale of a business.

- **Penalties for Noncompliance:**

Violations of Virginia’s restrictions on the use of covenants not to compete can result in civil penalties of \$10,000 for each violation, underscoring the importance of compliance.

Key Features of HB 627 / SB 128

The General Assembly also passed HB 627 and SB 128 (identical bills) that prohibit the use of noncompetes with “health care professionals.” The legislation defines “health care professional” as “any person licensed, registered, or certified by the Board of Medicine, Nursing, Counseling, Optometry, Psychology, or Social Work.”

Although noncompetes with health care professionals will generally be prohibited, the legislation expressly allows employers of health care professionals to:

- Enter into noncompetes with health care professionals in connection with the sale of a business.
- Enter into customer nonsolicitation agreements that restrict a health care professional from soliciting customers or prospective customers with whom the health care professional had material contact during employment, for products or services that are the same as or substantially similar to those provided by the employer.

HB 627 also expressly permits the use of nondisclosure agreements that restrict the misuse of trade secrets and proprietary or confidential information. This carve-out applies to all employees, not only health care professionals.

Existing Virginia Noncompete Restrictions

This legislation is the latest in a pattern of tightening restrictions on noncompete agreements. Since 2020, Virginia has prohibited noncompete agreements for low-wage employees, defined as employees and individual independent contractors whose average weekly earnings fall below the average weekly wage of the commonwealth. See Va. Code § 40.1-28.7:8. Currently, this threshold is \$78,364.25 per year. In 2025, Virginia broadened this restriction by expanding the definition of low-wage employees to include employees who, regardless of their average weekly earnings, are entitled to overtime compensation under the Fair Labor Standards Act (FLSA) for any hours worked over 40 in a workweek. On January 27, 2026, the Court of Appeals of Virginia in *Sentry Force Sec.*, No. 1405-24-4, held that Virginia’s prohibition on covenants not to compete for low-wage employees (i) does not prevent employers from enforcing customer nonsolicitation provisions against low-wage employees; but (ii) does prevent employers from enforcing employee non-solicitation provisions against low-wage employees.

Impact of New Legislation

With the implementation of SB 170 and HB 627, Virginia’s restrictions on the use of covenants not to compete will extend beyond low-wage employees to cover all employees and all health care professionals. Employers will be unable to enforce noncompete agreements against employees who are terminated without cause and who do not receive severance benefits or other qualifying monetary payments, where the covenant was entered into, amended, or renewed on or after July 1, 2026. Employers will also be unable to enforce noncompete agreements against health care professionals unless the noncompete agreement is entered into in connection with the sale of a business or the exceptions above apply.

As July 1 approaches, employers should review their existing restrictive covenant agreements to consider whether any action is needed. Please consult a Troutman Pepper Locke attorney with any questions regarding your organization's obligations under the amended law.

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