

Pennsylvania bill would restrict noncompetes

A bill before the Pennsylvania General Assembly would make Pennsylvania one of the states most hostile to noncompete agreements. In effect, the legislation—Pennsylvania House Bill 1938—would prohibit all “covenant not to compete,” other than those resulting from the sale of a business or the dissolution of or dissociation from a partnership or limited liability company.

Under the proposal, a covenant not to compete is “an agreement between an employer and an employee that is designed to impede the ability of an employee to seek employment with another employer.” That narrow definition does not include nondisclosure and nonsolicitation agreements.

The bill would allow wronged employees to receive “an award of attorney fees entitled to damages, including punitive damages, after prevailing in a suit against an employer.” This appears to apply even in cases where the employee is the defendant.

The bill, currently under consideration by the House Labor and Industry Committee, states that all Pennsylvania residents are covered, even if they work out of state. It would make Pennsylvania courts the venue for all noncompete cases involving Pennsylvania residents, meaning neither party could remove the case to federal court.