# Employee Noncompetes
## A State by State Survey

| State | Permitted | Protectable / Legitimate Interests | Standards | Exemptions | Continued Employment is Sufficient Consideration | Reformation Blue Pencil Red Pencil | Enforceable Against Discharged Employees |
|---|---|---|---|---|---|---|---|
| AL | Yes. Ala. Code Sec. 8-1-1 | Trade Secrets; Customer Relationships | Protectable Interest; Restriction is Reasonably Related to the Interest; Restriction is Reasonable in Time and Space; No Undue Hardship on Employee | Professionals | Yes | Reformation | Yes |
| AK | Yes | Trade Secrets; Confidential Information; Customer Relationship (where employee was sole contact) | Factors: Limitations in Time and Space; Whether Employee Was Sole Contact with Customer; Employee's Possession of Trade Secrets or Confidential Information; Whether Restriction Eliminates Unfair or Ordinary Competition; Whether the Covenant Stifles Employee's Inherent Skill and Experience; Proportionality of Benefit to Employer and Detriment to Employee; Whether Employee's Sole Means of Support is Barred; Whether Employee's Talent Was Developed During Employment; Whether Forbidden Employment Is Incidental to the Main Employment. | - | Undecided | Reformation | Undecided |
| AZ | Yes | Trade Secrets; Confidential Information; Customer Relationships | No broader than necessary to protect the employer's legitimate business interest; not unreasonably restrictive; not contrary to public policy; ancillary to another contract. | Broadcasters; maybe Physicians | Yes | Blue Pencil | Undecided |

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| AR | Yes | Special Training; Trade Secrets; Confidential Business Information; Customer Lists | Ancillary to Employment Agreement; Protectable Interest; Geographic Reach is not Overly Broad; Reasonable in Time; Not greater than reasonably necessary and does not injure a public interest. | - | Yes | Red Pencil | Undecided |
| CA | No, except maybe as to trade secrets. Cal. Business & Professions Code sec. 16600 | Trade Secrets | Uncertain status as to trade secrets. | - | - | - | - |
| CO | Yes, as to executive or management employees and professional staff; limited as to rest. Colo. Rev. Stat. sec. 8-2-113. | Trade Secrets; Recovery of Training Expenses for Short-term Employees | Must fall within statutory exception; be reasonable; and be narrowly-tailored. | - | Undecided | Blue Pencil | Undecided |
| CT | Yes | Trade Secrets; Confidential Information; Customer Relationships | Factors: time; geographic reach; fairness of protection afforded to employer; extent of restraint on employee; extent of interference with public interest. | Broadcasters; Security Guards | No | Blue Pencil | Yes |
| DE | Yes | Trade Secrets; Confidential Information; Customer Relationships | Reasonable in time and geographic reach; protects legitimate economic interests; survives balance of equities. | Physicians | Yes | Reformation | Yes |

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| DC | Yes | Trade secrets; confidential knowledge; expert training; fruits of employment | Reasonable in time and geographic area; necessary to protect legitimate business interests; promisee's need outweighs promisor's hardship. [Follows Restatement (Second) of Contracts, secs. 186-88.] | Broadcasters | Likely | Reformation or Blue Pencil | No |
| FL | Yes. Fla. Stat. Ann. Sec. 542.335 | Trade secrets; confidential business information; substantial customer relationships and goodwill; extraordinary or specialized training | Legitimate business interest; reasonably necessary to protect legitimate business interest. [Rebuttal presumptions exist.] | Mediators | Yes | Reformation | Undecided |
| GA | Yes. Ga. Const., Art. III, Sec. VI, Par. V(c), as amended. | Proprietary Confidential Information and Relationships; Goodwill; Economic Advantage; Time and Monetary Investment in Employee's Skill and Training | Not overbroad in time, space, and scope; interest of individuals in gaining and pursuing a livelihood; commercial concerns in protecting legitimate business interests; public policy. | - | Yes | Reformation | Yes, but it's a factor to be considered. |
| HI | Yes. Haw. Rev. Stat. sec. 480-4(c) | Trade Secrets; Confidential Information; Customer Contacts | Reasonable in time, space, scope. | - | Undecided | Reformation | Undecided |
| ID | Yes | Trade Secrets; Confidential Information; Customer Contacts | No broader than necessary to protect the employer's legitimate business interest; reasonable as to covenantor, covenantee, and public; not contrary to public policy. | - | Yes | Blue Pencil | Yes |

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| IL | Yes. | Trade Secrets; Confidential Information; Near Permanent Customer Relationships. | Reasonable and necessary to protect a legitimate business interest; reasonableness measured by hardship to employee, effect on public, and reasonableness in time, space, and scope. [Legitimate business interest requirement called into question.] | Broadcasters; Government Contractors; Physicians | Yes | Reformation | Yes |
| IN | Yes. | Trade Secrets; Confidential Information; Goodwill; Special Training or Techniques | Clear and specific (not general) restraint must be reasonable in light of the legitimate interests to be protected; reasonableness is measured by totality of interrelationship of the interest, and the time, space, and scope of the restriction, judged by the needs for the restriction, the effect on the employee, and the public interest. | - | Yes | Blue Pencil | Yes |
| IA | Yes. | Trade Secrets; Goodwill; Specialized Training | Whether the restriction is reasonably necessary to protect the employer's business, unreasonably restrictive (time and space), and prejudicial to the public interest. | Franchisees (where franchisor does not renew) | Yes | Reformation | Yes, but it's a factor to be considered. |
| KS | Yes. | Trade Secrets; Loss of Clients; Referral Sources; Reputation; Special Training | Protects a legitimate business interest; not undue burden on employee; not injurious to public welfare; reasonable in time and space. | Accountants (limited) | Yes | Reformation | Yes |
| KY | Yes. | Confidential Business Information; Customer Lists; Competition; Employee Raiding; Investment in Training | Reasonable in scope and purpose; reasonableness determined by the time, space, and "charter" of the restriction; no undue hardship; does not interfere with public interest | Physicians | Yes (if long enough and employee resigns) | Reformation | Undecided (but it can be a factor) |

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| LA | Yes. La. Rev. Stat. Ann. Sec. 23:921. | Trade Secrets; Financial Information; Management Techniques; Extensive (Unrecouped Through Employee's Work) Training | No more than two years; specifies the specific geographic reach (by parishes, municipalities, or their respective parts); defines employer's business; strict compliance with statute. | Automobile Salesman; Real Estate Broker's Licensees (procedural requirements) | Yes | Blue Pencil, if allowed by the noncompete | Yes, likely. |
| ME | Yes | Trade Secrets; Confidential Information; Goodwill | No broader than necessary to protect the employer's legitimate business interest; reasonable as to time, space, and interests to be protected; no undue hardship to employee. | Broadcast Industry (presumption) | Yes | Reformation | Yes, likely. |
| MD | Yes | Trade Secrets; Routes; Client Lists; Established Customer Relationships; Goodwill; Unique Services | Duration and space no broader than reasonably necessary to protect legitimate interests; no undue hardship to employee or public; ancillary to the employment. | - | Yes | Blue Pencil, but undecided as to whether more flexible | No, likely. |
| MA | Yes | Trade Secrets; Confidential Information; Goodwill | Narrowly tailored to protect legitimate business interest; limited in time, space, and scope; consonant with public policy; harm to employer outweighs harm to employee. | Broadcasters; Physicians; Nurses; Social Workers; Psychologists | Yes | Reformation | Yes |
| MI | Yes. Mich. Comp. Laws sec. 445.774a. | Trade Secrets; Confidential Business Information; Goodwill | Must have an honest and just purpose and to protect legitimate business interests; reasonable in time, space, and scope or line of business; not injurious to the public. | - | Yes | Reformation | Yes |

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| MN | Yes | Trade Secrets; Confidential Business Information; Goodwill; Prevention of Unfair Competition | No broader than necessary to protect the employer's legitimate business interest; does not impose unnecessary hardship on employee. | - | No | Reformation | Yes |
| MS | Yes | Trade Secrets; Confidential Business Information; Goodwill; Ability to Succeed in a Competitive Market | Reasonableness and specificity of restriction, primarily, in time and space; hardship to employer and employee; public interest. | - | Yes (though questioned if employee terminated shortly after) | Reformation | Yes |
| MO | Yes. 28 Mo. Stat. Ann. Sec. 431.202 | Trade Secrets; Confidential Business Information; Customer or Supplier Relationships, Goodwill, or Loyalty; Customer Lists; Protection from Unfair Competition; Stability in the Workforce | Reasonably necessary to protect legitimate interests; reasonable in time and space; not an unreasonable restraint on employee; purpose served; situation of the parties; limits of the restraint; specialization of the business. [Absence of legitimate business interest impacts duration, which can be no more than one year.] | Secretaries (limited); Clerks (limited) | Yes, generally. | Reformation | Yes |
| MT | Yes. Mont. Code Ann. Secs. 28-703-05 | Likely confidential information and goodwill; may be more broad. | Reasonable in time or space; reasonable protection for employer; does not impose unreasonable burden on the employee or public. | - | Undecided | Blue Pencil, likely | Undecided |

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| NE | Yes | Trade Secrets; Confidential Information; Goodwill | Reasonably necessary to protect legitimate interests; not unduly harsh or oppressive to employee; not injurious to the public. Considerations include: inequality in bargaining power; risk of loss of customers; extent of participation in securing and retaining customers; good faith of employer; employee's job, training, health, education, and family needs; current employment conditions; need for employee to change his calling or residence; relation of restriction to legitimate interest being protected. | - | Yes | Red Pencil | Undecided |
| NV | Yes. Nev. Rev. Stat. sec. 613.200 | Trade Secrets; Goodwill | Not greater than reasonably necessary to protect the business and goodwill of the employer; no undue hardship on employee. Time and space are considerations for reasonableness. | - | Yes | Reformation | Undecided |
| NH | Yes | Trade Secrets; Confidential Business Information; Goodwill; Employee's Special Influence Over the Employer's Customers | Not greater than necessary to protect the employer's legitimate business interests; no undue or disproportionate hardship to employee; not injurious to public interest. | - | Yes | Reformation | Undecided |

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| NJ | Yes | Trade Secrets; Confidential Business Information; Goodwill in Existing Customers; Preventing Employee from Working with Customer at Lower Cost than Working through Employer | Protects a legitimate business interest; not undue burden on employee; not injurious to the public; not overbroad in time, space, and scope. | In-House Counsel; Psychologists. | Yes | Reformation | Yes |
| NM | Yes | Maintaining Workforce; Limitation of Competition (but not to stifle competition); Customer Relationships | Reasonable as applied to the employer, employee, and public; not great hardship to employee in exchange for small benefits to employer. | - | Yes, likely | Undecided | Undecided |
| NY | Yes | Trade Secrets; Confidential Information; Goodwill; On-Air Persona of Broadcasters; Employee's Unique or Extraordinary Services | Necessary to protect legitimate business interest; reasonable in time and space; not harmful to general public; not unreasonably burdensome to the employee. | - | Yes | Reformation | Yes, with exceptions. |
| NC | Yes. N.C. Gen. Stat. sec. 75-4; 21 N.C. Admin. Code sec. 29.0502(e)(5) (limitations on locksmiths) | Trade Secrets; Confidential Business Information; Goodwill | In writing; part of an employment contract; reasonably necessary to protect legitimate business interest; reasonable in time and space; not against public policy. | - | No | Blue Pencil | Yes, likely. |
| ND | No. N.D. Cent. Code sec. 9-08-06 | - | - | - | - | - | - |

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| OH | Yes | Trade Secrets; Confidential Information; Customer Relationships; Prevention of the Use of Proprietary Customer Information to Solicit Customers | Not greater than necessary to protect the employer's legitimate business interests; no undue hardship to employee; not injurious to public interest. Considerations: absence or presence of limitations as to time and space; whether employee is sole contact with customer; employee's possession of trade secrets or confidential information; purpose of restriction (elimination of unfair competition vs. ordinary competition and whether seeks to stifle employee's inherent skill and experience); proportionality of benefit to employer as compared to the detriment to the employee; other means of support for employee; when employee's talent was developed; whether forbidden employment is merely incidental to the main employment. | - | Yes | Reformation | Yes |
| OK | No. Okla Stat. ti. 15, sec. 219A | - | - | - | - | - | - |

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| OR | Yes. Or. Rev. Stat. sec. 653.295 | Trade Secrets; Confidential Business or Professional Information; Investment in Certain On-Air Broadcasters; Customer Contacts and Goodwill | Noncompete provided at least two weeks before employment or with bona fide advancement; employee meets minimum compensation threshold; no longer than two years; restricted in time or space; application of restriction should afford only a fair protection of the employer's interests; must not interfere with public interest. [Qualifying garden leave clauses are enforceable.] | - | No. | Reformation | Undecided |
| PA | Yes | Trade Secrets; Confidential Information; Goodwill; Investment in Specialized Training; Unique or Extraordinary Skills | Ancillary to employment relation or other transaction; reasonably necessary to protect the employer's legitimate interests; reasonable in time and space. | - | Unlikely. | Reformation | Yes, but it's a factor to be considered. |
| RI | Yes | Trade Secrets; Confidential Information; Customer Lists; Goodwill; Special Training or Skills | Reasonable in light of protectable interests. | - | Undecided | Blue Pencil, but may allow Reformation | Undecided |
| SC | Yes | Business and Customer Contacts; Existing Employees; Existing Payroll Deduction Accounts. | Necessary to protect legitimate business interest; reasonably limited in time and space; not unduly harsh and oppressive to employee's efforts to earn a living; reasonable from standpoint of public policy. | - | Undecided | Blue Pencil | Undecided |

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| SD | Yes. S.D. Codified Laws sec. 53-9-8, *et seq*. | Trade Secrets; Protection from Unfair Competition; Existing Customers | Restriction is in the same business or profession as that carried on by employer and does not exceed two years and in a specified geographic area; reasonableness in time, space, and scope is a factor only in certain circumstances. | - | Yes | Reformation, likely. | Yes, but it's a factor to be considered. |
| TN | Yes | Trade Secrets; Confidential Information; Retention of Existing Customers; Investment in Training or Enhancing the Employee's Skill and Experience | Restriction must be reasonable in time and space and necessary to protect legitimate interest; public interest no adversely affected; no undue hardship to the employee. | Physicians (in certain circumstances). | Yes (if employment continued for appreciably long period) | Reformation | Undecided |
| TX | Yes. Tex. Bus. & Com. Code secs. 15.50-.52 | Trade Secrets; Confidential or Proprietary Information; Goodwill; Special Training or Knowledge Acquired During Employment; | Ancillary to an otherwise enforceable agreement; reasonable in time, space, and scope; does not impose a greater restraint than necessary to protect legitimate business interest. Open issue: whether the consideration for the noncompete (typically the provision of confidential information) must give rise to the interest protected by the noncompete; Texas Supreme Court has said no, but lingering questions remain. | Physicians (in certain circumstances). | No | Reformation | Yes |
| UT | Yes | Trade Secrets; Goodwill; Extraordinary Investment in Training or Education | No bad faith in the negotiations; necessary to protect legitimate business interest; reasonable in time, space, and scope; consideration of hardship. | - | Yes | Undecided | Yes |

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| VT | Yes | Proprietary Confidential Information; Goodwill; Relationships with Customers; Investments in Special Training | Necessary to protect legitimate business interest; not unnecessarily restrictive to employee; limited in time, space, and/or industry; not contrary to public policy. | Beauticians and Cosmetologists (by their school) | Yes | Undecided | Yes, but it's a factor to be considered. |
| VA | Yes | Trade Secrets; Confidential Information; Knowledge of Methods of Operation; Protection from Detrimental Competition; Customer Contacts | No broader than necessary to protect the employer's legitimate business interest; reasonable in time, space, and scope; not unduly harsh in curtailing employee's ability to earn a living; reasonable in terms of public policy. | - | No | Red Pencil | Yes |
| WA | Yes | Customer Information and Contacts; Goodwill | Restriction is necessary to protect employer's business or goodwill; restriction is no greater than reasonably necessary to secure employer's business or goodwill; reasonable in time and space; injury to public does not outweigh benefit to employer. | Broadcasters (under certain circumstances) | No | Reformation | Yes, likely. |
| WV | Yes | Trade Secrets; Confidential or Unique Information; Customer Lists; Direct Investment in Employee's Skills; Goodwill | Ancillary to a lawful contract; not greater than reasonably necessary to protect legitimate business interest; reasonable in time and space; no undue hardship on employee; not injurious to public. | - | No, likely. | Reformation | Undecided |

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| WI | Yes. Wis. Stat. Ann. Sec. 104.465 | Trade Secrets; Confidential Business Information; Customer Relationships. | Necessary to protect legitimate business interest; reasonable in time and space; not harsh or oppressive to the employee; not contrary to public policy. | - | No, likely. | Blue Pencil | Yes, likely. |
| WY | Yes. | Trade Secrets; Confidential Information; Special Influence of Employee Over Customers to the Extent Gained During Employment | Restraint must be ancillary to otherwise valid agreement and fair; no greater than necessary to protect legitimate business interests; reasonable in time and space; no undue hardship on employee; employer's need outweighs harm to employee and public; not injurious to public. | - | No | Reformation | Yes, likely. |
| | | Customer lists are frequently considered trade secrets or confidential information. Some states, however, separately identify them as protectable interests. | Consideration for the noncompete is always a requirement. That requirement is not typically an issue when the agreement is entered into at the inception of an employment relationship. | Attorneys and certain persons in the financial services industry are subject to industry regulations not addressed in this chart. | The continued employment issue addresses only at-will employment relationships. | Reformation is also sometimes called "Judicial Modification," the "Rule of Reasonableness," the "Reasonable Alteration Approach," or the "Partial-Enforcement" rule. Red Pencil is also sometimes called the "All or Nothing" rule. | Assumes no breach or bad faith by the employer. |

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