

TENNESSEE IS ABOUT TO REWRITE THE RULES ON RESTRICTIVE COVENANTS: YOUR 4-STEP ACTION PLAN

Insights
May 5, 2026

Tennessee is About to Rewrite the Rules on Restrictive Covenants: Your 4-Step Action Plan

Restrictive covenant agreements in Tennessee are about to get a major overhaul, and most employers haven't heard about it yet. Legislation now sitting on Governor Bill Lee's desk would establish the state's first comprehensive statutory framework governing non-compete, non-solicitation, and other restrictive covenants. While it wouldn't ban non-competes outright, it would create a \$70K income threshold for those provisions and set clearer restrictions on the temporal scope of restrictive covenants generally. If it goes into law as expected, the new statutory framework would take effect on July 1 and apply to any agreement entered into, renewed, or amended on or after that date. What do you need to know about this new law and what four steps should you consider taking to prepare?

How We Got Here

The bill that ultimately passed on April 30 looks nothing like the one that started the process.

- HB 1034 was originally introduced as a flat-out ban on non-competes: a straightforward prohibition on enforcing any restriction on an employee's or contractor's right to practice their profession after leaving a job.
- That version passed the House on April 16 on a 74-8 vote.

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- But Tennessee lawmakers ultimately stepped back from an outright ban and substituted a more targeted framework in the Senate, which passed it 28-4 on April 20.
- The House then agreed to the changes with an April 30 signature from the Speaker.

What the New Law Does

The legislation creates two new statutory provisions in Tennessee Code Annotated Title 50.

Rebuttable Presumptions on Duration of Agreement

The law establishes a tiered framework for evaluating whether a restrictive covenant's time restriction is reasonable. Courts will presume a covenant is unreasonable if it exceeds the applicable threshold for its category:

- **Former employees and independent contractors:** Restraints of two years or less are presumed reasonable; anything longer is presumed unreasonable.
- **Distributors, dealers, franchisees, lessees, and licensees:** The presumption of reasonableness extends to three years.
- **Sellers of a business interest:** Restraints are presumed reasonable up to five years, or the duration of any payment period to the seller (whichever is longer).

These are rebuttable presumptions, meaning an employer can still argue that a longer restraint is reasonable under the specific circumstances. Courts also retain authority to modify a restrictive covenant to make it enforceable rather than void it outright.

Importantly, the framework does not prohibit an employer from enforcing confidentiality agreements, customer non-solicitation agreements, or employee non-solicitation agreements. Those remain fully enforceable provided they are reasonable in scope and otherwise meet the existing standards for enforceability under Tennessee law.

Income Threshold For Non-Competes

The law also creates a hard floor: employers cannot require, request, or enforce a non-compete against any employee



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earning less than \$70,000 annually. Annualized compensation for this purpose includes wages, salary, commissions, and non-discretionary bonuses. For hourly workers, it's calculated as hourly rate x 40 hours x 52 weeks.

Any non-compete executed in violation of this provision is void and unenforceable as a matter of public policy.

4 Steps Employers Should Consider Now

With a July 1 effective date approaching fast, Tennessee employers should move quickly to audit existing non-compete practices. Agreements entered before that date may not be affected, but any renewal or amendment after July 1 triggers the new rules. Your four key steps:

- **Review your restrictive covenant agreements** and confirm any time restrictions fall within the applicable presumptive limits for your workforce.
- **Identify Tennessee employees and new hires earning under \$70,000** and ensure they do not sign a non-compete agreement after the effective date.
- **Consider whether existing agreements** will be renewed or amended after July 1. If so, that renewal brings them under the new law.
- **Work with your FP employment counsel** to evaluate whether your agreements can withstand a rebuttable presumption challenge, particularly for restraints longer than two years.

Conclusion

We will continue to monitor developments on this new law, so make sure you are subscribed to [Fisher Phillips' Insight System](#) to get the most up-to-date information directly to your inbox. If you have questions, please contact your Fisher Phillips attorney, the authors of this Insight, any attorney in our [Memphis](#) or [Nashville](#) offices, or any member of our [Employee Defection and Trade Secrets Practice Group](#).