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## California Workplace Law Blog

Insight & Commentary on California Workplace Law Issues & Developments

# California Enacts Legislation to Support State's Prohibitions on Employee Restrictive Covenants

By Clifford R. Atlas, Adrienne L. Conrad & Julia A. Olivier on September 5, 2023

On September 1, 2023, Governor Newsom signed **Senate Bill (SB) 699**, which buttresses current state law that voids contracts that restrain an employee from engaging in a lawful profession, trade, or business of any kind.

California's Business and Professions Code section 16600 states, "[E]very contract by which anyone is restrained from engaging in a lawful profession, trade, or business of any kind is to that extent void." This section has long been interpreted by California courts as prohibiting post-employment noncompetition, non-solicitation of customers, and non-solicitation of employee agreements, with few exceptions. The chapter exempts such restrictive covenants in the sale or dissolution of corporations, partnerships, and limited liability corporations.

SB 699 both reiterates existing law and goes a few steps further. Under SB 699, any contract that is void under section 16600 is unenforceable, regardless of where and when the contract was signed. In addition, an employer or former employer may not attempt to enforce a contract that restricts an employee's ability to engage in a lawful profession, trade, or business, even if the contract was signed outside of California and the employment was maintained outside of California.

Moreover, SB 699 prohibits an employer from entering into a contract with an employee or prospective employee which includes noncompete clauses and other restrictive covenants that are void under section 16600. Employers who violate SB 699 could be liable for civil violations.

An important change to California law is that SB 699 adds explicit enforcement rights for employees regarding restrictive contracts.

This law takes effect on **January 1, 2024**, to the extent that new enforcement rights are created.

Another bill pertaining to restrictive covenants, Assembly Bill 747 that had been working its way through the California legislature has been ordered to the inactive file for this session.

If you have questions about SB 699 or related issues, contact a Jackson Lewis attorney to discuss.

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