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Kansas Passes Pro-Employer Restrictive Covenant Legislation

Law and the Workplace on **May 1, 2025**

On April 9, 2025, Kansas Governor Laura Kelley signed into law Senate Bill No. 241 (the "Bill"), which amends the Kansas Restraint of Trade Act (the "Act") to (a) create presumptions of enforceability for non-solicitation covenants meeting the Act's requirements, and (b) require reformation of overbroad restrictive covenants. The Act expressly excludes non-competition covenants from its scope. K.S.A. § 50-163(d)(6).

The Bill amended Section 50-163 of the Act to clarify the scope of agreements and restrictive covenants covered by the Act. Specifically, the Bill clarified that a non-solicit in which an employee agrees not to solicit employees shall be "conclusively presumed to be enforceable" where it: (a) seeks, on the part of the employer, to protect confidential trade secret business information or customer/supplier information, *or* (2) does not continue for more than two years following the employee's employment. K.S.A. § 50-163(c)(4).

Similarly, a non-solicit clause in which an employee agrees not to solicit customers shall be "conclusively presumed to be enforceable" if "the covenant is limited to material contact customers and … does not continue for more than two years following the end of the employee's employment with the employer." K.S.A. § 50-163(c)(5). "Material contact customers" is defined as any "customer or prospective customer that is solicited, produced or serviced, directly or indirectly, by the employee … or about whom the employee, directly or indirectly, had confidential business or proprietary information or trade secrets in the course of the employee's relationship with the customer." K.S.A. § 50-163(g)(2).

Notably, the Bill also amended the Act to state that a court *must* modify an overbroad restrictive covenant covered by the Act, and enforce the covenant as modified. K.S.A. § 50-163(b).

Takeaways

After a nationwide injunction halted the Federal Trade Commission's attempt last year to issue a final rule banning non-competes nationwide, several states, such as Virginia and Wyoming, have passed their own legislation limiting the use of non-competes and other restrictive covenants. The passage of the Bill in Kansas is a move in a different direction.

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