

TYPES NOT MAPPED YET March 15, 2024 | TTR not mapped yet | Howard S. Lavin

New York City Jumps Into the Non-Compete Fray

In the wake of Governor Hochul's veto of a statewide ban on non-competition agreements, which we [previously addressed](#), the New York City Council is considering three bills.

The first, [Int 0140-2024](#), broadly prohibits non-competes for all New York City "workers," defined as "a person who works, whether paid or unpaid, for an employer," including independent contractors. This bill not only bans future non-competes but also requires employers to rescind any non-competition agreement entered into before the local law became effective. The New York City Office of Labor Standards would be responsible for enforcement, and employers would be subject to a \$500 civil penalty for each violation.

One of the other bills, [Int 0146-2024](#), prohibits non-competes for "low-wage employees," defined as a "clerical and other worker," under New York Labor Law Section 190 (7), except those employed in a bona fide executive, administrative or professional capacity earning in excess of \$1,300 each week. Significantly, employers would also be prohibited from entering into non-competes with potential employees who are not low-wage employees unless at the "beginning of the process for hiring such employee" the employer disclosed, in writing, that they may be subject to a non-compete. The New York City Office of Labor Standards would be responsible for enforcement, including the implementation of rules.

Finally, [Int 0375-2024](#) would bar non-competes for "freelance workers" "hired or retained as an independent contractor by a hiring party," unless such covenant also contains a requirement for the hiring party to provide payment of a reasonable and mutually agreed upon sum to the freelance worker on a bi-weekly or monthly basis for the duration of time when the non-compete is in effect. Without such payment, the non-compete would be null and void. This bill includes a private right of action for freelance workers claiming to be aggrieved, enabling them to seek a declaratory judgment that the non-compete is void, attorneys' fees and statutory damages of \$1,000.

We will continue to monitor developments. Stay tuned!





authorsTest

howard

Howard S. Lavin