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"Wash. Noncompete Reform: What Employers Need To Know"

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In an article published on June 14, 2019 in *Law360*, Alicia Feichtmeir and Steven Peltin provide insight into the changing landscape of noncompete law. Once viewed as a critical tool employers deployed to protect business interests, legislatures and courts are beginning to question and push back on what constitutes a former employee presenting a competitive risk.

More specifically, Washington state recently signed legislation limiting the employees who can be bound to noncompete agreements, creating penalties for employers' noncompliance and invalidating existing noncompete agreements that do not align with the new requirements.

"Noncompete agreements have been generally enforced by Washington state courts if they are reasonable in geographic scope and duration, narrowly drafted to protect a business need, and are not detrimental to the public interest," said Feichtmeir and Peltin, adding that the new noncompete law attempts to set some clear guidelines so that employers and employees have a sense of how and when restrictive covenants can be used.

As employers consider next steps, those with Washington-based employees should proceed with caution in anticipation of next year's changes, particularly since employers will now be subject to penalties for use and attempted enforcement of noncompliant agreements.

"Employers should take the time now to carefully review existing noncompete agreements to evaluate whether the restrictions align with the standards in the new law. Employers should consider drafting and implementing new agreements for their workforce or rely on other business protections that are not subject to the new law, such as nonsolicitation and confidentiality requirements, which similarly guard against unfair

competition," said Feichtmeir and Peltin.

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