

Attorney General Ellison again supports limiting non-competes in employment

Joins 18 AGs in comments to FTC in favor of proposed rule he first asked for in 2019; 30M American workers bound by non-compete clauses

April 24, 2023 (SAINT PAUL) — Minnesota Attorney General Keith Ellison has joined a coalition of 18 attorneys general in submitting [comments to the Federal Trade Commission](#) in support of a proposed rule that would eliminate non-compete clauses in employment contracts in most circumstances. In [November 2019](#), Attorney General Ellison led a coalition of attorneys general in asking the FTC to begin rule-making to classify non-compete clauses in employment contracts as an unfair method of competition and per se illegal for low-wage workers.

In [January 2023](#), the FTC met that request by proposing the [Non-Compete Clause Rule](#), which would largely bar employers from preventing workers from working for or starting a competing business within a certain period after leaving a job. Approximately 30 million American workers, or about 20 percent of the national workforce, are bound by non-compete clauses.

“No one thinks it’s fair that your employer can have free rein to block your chance to get future jobs or start your own business. It’s another example of the economy being unfairly stacked against working folks,” Attorney General Ellison said. “I’ve been fighting for years to limit the use of non-compete agreements, because doing so will make it easier for everyone to afford their lives and will unleash wealth and economic growth for every community in America. I’m pleased the FTC has proposed this rule and look forward to it taking effect as soon as possible.”

The FTC’s proposed rule concludes that non-competes are an unfair method of competition that can depress worker wages, reduce racial and gender equality in workplaces, and create legal hurdles for employees looking to grow their careers. Currently, the legality of such noncompete agreements is left to the states, creating confusion for workers and distorting labor markets that cover more than one state.

Low and middle-wage workers would benefit the most from this proposed rule, with a high potential for increases in wages and job mobility. The proposed rule would also promote gender and racial equity, as studies have found that non-compete clauses cause women and non-white workers to see earnings reductions two times greater than that experienced by white male workers. In their comments, Attorney General Ellison and the coalition also note that the elimination of non-competes would benefit business and the economy as a whole, as non-competes restrict entrepreneurship and start-up activity.

They also emphasize that the rule will particularly improve conditions in the healthcare industry, which is becoming increasingly concentrated in fewer employers in the United States. Non-competes are widely used in the healthcare industry and restrict entry of health care workers into their employment market, which inflates prices and decreases wages.

In their comments, Attorney General Ellison and the coalition support the FTC's definition of "non-compete clause," support the Commission's broad definition of "worker," and urge the Commission to clarify that the proposed rule does not overtake similar laws at the state level that provide similar or greater protections to workers.

In filing the comment letter, Attorney General Ellison joined the attorneys general of California, Colorado, Delaware, the District of Columbia, Illinois, Maine, Maryland, Massachusetts, Michigan, Nevada, New Jersey, New Mexico, New York, Oregon, Pennsylvania, Rhode Island, and Washington.