



Office of Policy Planning

UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
WASHINGTON, D.C. 20580

January 14, 2025

VIA ELECTRONIC MAIL

The Honorable Rob Sampson
Senator
The Connecticut Senate

Re: S.B. 354

Dear Senator Sampson:

I write this letter as the Director of the Federal Trade Commission’s (“FTC”) Office of Policy Planning, the FTC office that provides advocacies and submits filings supporting competition and consumer protection principles to state legislatures, regulatory boards, and officials.

I understand that the Connecticut legislature is considering S.B. 354 (“the Bill”) that, among other things, would repeal several of the state’s existing restrictions on noncompete provisions. On April 23, 2024, the Commission approved a final rule under the FTC Act banning noncompete clauses because of the many harms that they cause to workers and the benefits that would arise from a ban.¹

I write to highlight a number of the Commission’s evidentiary findings of the harmful effects of noncompetes that you may find informative as you consider the Bill. The rule and other materials that you may find helpful—including a summary, fact sheet, and compliance guide—are posted on the FTC website.²

Many Americans have experienced the harmful effects of noncompetes and support banning them. After the Commission proposed to ban noncompetes, the Commission received more than 26,000 comments. Of those, approximately 25,000 favored a categorical ban.³ Many workers described how noncompetes blocked them from taking a better job, negotiating better pay, or starting a business. Many entrepreneurs and small businesses also described how noncompetes prevented them from starting a business or

¹ Non-Compete Clause Rule, 89 Fed. Reg. 38342 (May 7, 2024) (to be codified at 16 C.F.R. part 910), <https://www.federalregister.gov/documents/2024/05/07/2024-09171/non-compete-clause-rule>. The rule has not come into effect at this time, because a Texas district court issued an order stopping the FTC from enforcing the rule. The FTC has appealed that decision. The district court’s decision does not prevent the FTC from addressing noncompetes through case-by-case enforcement actions.

² FTC, Noncompete Rule, <https://www.ftc.gov/legal-library/browse/rules/noncompete-rule>.

³ 89 Fed Reg. at 38344.

hiring qualified workers.⁴ Many of the comments were from workers, businesses, and others in Connecticut. You can find such comments on the FTC’s public docket at Regulations.gov.⁵

The evidence shows that noncompetes are used extensively, including even for low-wage workers. The Commission found that nationwide, approximately one in five workers—or thirty million Americans—are bound by noncompetes.⁶ One survey found that 35% of workers without a bachelor’s degree and 33% of workers earning less than \$40,000 per year have worked under a noncompete at some point in their lives.⁷ Another analysis of the same data found that 53% of workers covered by noncompetes are hourly workers.⁸

Noncompetes restrict workers’ fundamental freedom to leave for a better job or to start their own business. Based on empirical research and public comments, the Commission found that noncompetes are exploitative and coercive for all workers except for senior executives. For almost all workers, non-competes are unilaterally imposed, typically without negotiation or compensation, and force workers to remain in jobs and bear significant harms and costs.⁹

Based on the extensive empirical evidence, the Commission found that noncompetes tend to negatively affect competitive conditions in both labor and product and service markets.¹⁰ The Commission found that because noncompetes decrease mobility and competition in the labor market, they suppress wages not only for the workers subject to them, but also for workers who are not subject to them.¹¹ The Commission estimates that its rule would increase workers’ earnings by \$400-\$488 billion over the next decade, and an average worker would earn \$524 more per year.¹²

The Commission further found that noncompetes negatively affect competitive conditions in markets for products and services, inhibiting new business formation, decreasing innovation, and raising prices.¹³ The Commission estimates that its rule would increase new business formation by 2.7%, creating over 8,500 new businesses each year.¹⁴ Innovation would also increase, leading to about 17,000-29,000 new patents each year on average.¹⁵ Through increased competition and innovation, consumers would have access to better products and lower prices.¹⁶ For example, the Commission estimates that the rule

⁴ *Id.* at 38344-45, 38389-94.

⁵ The comments are available and searchable by state at Regulations.gov, <https://www.regulations.gov/document/FTC-2023-0007-0001/comment>.

⁶ 89 Fed. Reg. at 38343, 38346.

⁷ *Id.* at 38346.

⁸ *Id.*

⁹ *Id.* at 38374-79.

¹⁰ The Commission assessed the numerous empirical studies that have been conducted on noncompetes and explained the weight it gave to each study. *See id.* at 38374-424; *see also id.* at 38372-74 (explaining the Commission’s analytical framework for assessing the empirical evidence).

¹¹ *See id.* at 38382-87.

¹² *Id.* at 38469-70, 38474, 38505-06 (App., Table A1).

¹³ *See id.* at 38388-402.

¹⁴ *See id.* at 38433, 38485; FTC, Noncompete Rule, <https://www.ftc.gov/legal-library/browse/rules/noncompete-rule>.

¹⁵ This reflects an estimated increase of about 3,000 to 5,000 new patents in the first year noncompetes are banned, rising to about 30,000-53,000 in the tenth year. *See* 89 Fed. Reg. 38476.

¹⁶ *Id.* at 38380, 38408.

would reduce health care costs by \$74-\$194 billion over the next decade in reduced spending on physician services.¹⁷

In adopting the rule, the Commission assessed employers' claimed justifications for noncompetes and found that employers have several viable alternatives that do not impose the same burdens on competition.¹⁸ The Commission found that employers can use trade secret law and reasonable non-disclosure agreements to protect legitimate intellectual property interests.¹⁹ Roughly 95% of workers with noncompetes are already subject to non-disclosure agreements.²⁰ The Commission also found that employers can protect their investments in worker human capital, including training, by entering into fixed duration employment contracts.²¹ They can also compete on the merits to retain workers by offering higher wages and better jobs.²²

I hope that the Commission's research, analysis, and evidentiary findings concerning noncompetes are valuable to you as you consider S.B. 354. Please do not hesitate to reach out if my office can be of further assistance.

Sincerely,

Hannah Garden-Monheit

Hannah Garden-Monheit
Director
Office of Policy Planning

¹⁷ *Id.* at 38470, 38478.

¹⁸ *See id.* at 38421-34.

¹⁹ *Id.* at 38424-26.

²⁰ *See id.* at 38426 (citing Natarajan Balasubramanian, Evan Starr, & Shotaro Yamaguchi, *Employment Restrictions on Resource Transferability and Value Appropriation from Employees* (Jan. 18, 2024), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3814403).

²¹ 89 Fed. Reg. at 38426.

²² *Id.*