

An Annual Ritual: Massachusetts Noncompete Legislation

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We [wrote last year](#) about significant legislative efforts to ban noncompetes in Massachusetts. Proponents of such a ban, including [Governor Patrick](#), contend that Massachusetts suffers a brain drain in the high-technology field because talent flees to California, where as many readers will know, noncompetes are virtually banned. In other words, a tech whiz would rather work in California where she may move freely from company to company rather than being limited by a noncompete. Certain [high-tech interests](#) in Massachusetts support a ban, whereas most traditional industry has tended to oppose it. There was substantial legislative activity last year, ultimately resulting in no action at all. It's back. Recently, a legislative committee heard testimony on five different bills related to noncompetes, including virtual outright bans. While noncompete laws vary significantly from state to state, very few states outside of California ban them outright. To have such a ban in Massachusetts, our 14th most populous state, would be significant. (As I have written [here](#) before, even if you are not in Massachusetts, if you might possibly "be competed with" there, these developments can affect your business even if your contracts specify your own state's law.) An outright ban seems unlikely, but there is talk of some sort of a compromise version that may come to pass. We will continue to monitor this development at BT Currents. Few employment issues are higher stakes if a key employee is looking to move to a competitor.

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