

Groundhog Day: Declaring The Impending Death Of Massachusetts Noncompetes

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For the last three years, we have reported on legislative efforts to ban noncompetes in Massachusetts. You can see each of those reports [here](#). Thus far none of those efforts have been successful. Here again in 2016, legislative efforts to ban noncompetes promise to continue in Massachusetts, with one commentator declaring, “[This is the year.](#)” Our job as business lawyers is to advise clients on how [widely varying state laws](#) affect their ability to use noncompetes, then they can make their business decisions from there. Different businesses take very different views on noncompetes, as those seeking to ban them in Massachusetts have learned. Therefore, our job does not drive any particular policy position on noncompetes. However, I have observed that opponents seem quick to share stories about [stories about seeming extreme noncompetes](#) (certainly they exist but good luck enforcing them) and/or declare noncompetes’ ongoing decline ([they’re not](#)) and/or say they have a [negative impact on the economy](#) (I’m still waiting for proof of what the impact may be, pro or con) – none of those things always supported by facts and data. The above-linked commentator has “heard” that noncompetes have prevented 19 year olds from switching employment at summer camps. I have not seen that, directly or indirectly, and it seems that it would be difficult even in a pro-enforcement state like Ohio to enforce such a noncompete. But it certainly makes a nice story, even if it may jeopardize the support of the summer camp trade association for the legislation. The commentator also talks about the “stifling effect” noncompetes have on the Massachusetts economy, though I do not see any data supporting that conclusion. I am no economist either, but my first result in a Google search lists Massachusetts as the [6th best economy among states](#) in the last quarter of 2015. Just think how highly the state would be ranked if its economy were not stifled. Maybe this is the year for Massachusetts; we will see. In any event, we will continue to watch developments by state, some of which will be pro-enforcement and some of which will not, and keep you posted on how it affects your businesses.

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