



## PRESS RELEASE

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### **Attorney General Frosh Urges Federal Trade Commission to Crack Down on Abusive Non-Competes in the Workplace**

*19 Attorneys General Call on FTC to Limit Anti-Competitive Labor Practices that Restrict Job Mobility and Depress Wages for Workers*

**BALTIMORE, MD (March 12, 2020)** – Maryland Attorney General Brian E. Frosh today joined a coalition of 19 attorneys general urging the Federal Trade Commission (FTC) to help stop the harmful and excessive use of non-compete agreements in the workplace, particularly for low-wage workers. As the FTC considers whether to implement federal rules regarding non-compete agreements, the coalition submitted [comments](#) expressing concern over the widespread use of these agreements. The attorneys general assert that they drive down wages and job mobility for workers and raise prices, while lowering product quality for consumers. The coalition urged the FTC to ramp up enforcement actions against unreasonable non-compete agreements, make new rules limiting use of these agreements for low-wage workers, and closely examine their impact on all workplaces.

“Low-wage workers are vulnerable to exploitation when employers require non-compete clauses in employment contracts. The FTC should take action to protect them,” said Attorney General Frosh.

A non-compete agreement is a provision in an employment contract that limits employees from taking a new job or starting their own business in the same industry within a geographic area for a certain period after leaving their current position. Today, nearly 25 percent of American workers are covered by non-compete agreements, and 53 percent of those covered by these agreements are hourly workers.

In January 2019, the FTC held a public workshop to examine whether the agency should consider restricting the use of non-compete agreements in employment contracts. To aid their continuing analysis, the FTC posed several questions about these agreements to the public. In November 2019, Attorney General Frosh, as part of a coalition of 19 attorneys general, submitted a [letter](#) asking the FTC to use its rulemaking authority to end the abusive use of non-compete clauses in employment contracts. The FTC held a second public workshop in January 2020, again asking for public comments on these non-compete clauses.

In today’s comment letter to the FTC, the coalition argues that non-compete agreements:

- **Harm workers by restricting job mobility and depressing wages:** Non-compete agreements typically stop workers from seeking different jobs—potentially offering

higher pay and better benefits—without relocating or switching industries. Because workers cannot easily change jobs, companies do not have to compete to attract or retain them. This depresses wages and lowers the quality of benefits companies offer. In states that limit these restrictive agreements, workers tend to see benefits such as higher hourly wages and better job mobility.

- **Harm consumers by stifling entrepreneurship, innovation, and price competition:** Workers bound by non-compete agreements cannot use their skills to start their own businesses, and businesses cannot expand into new markets if they do not have access to workers in those markets. This lack of competition within industries means that consumers are cut off from innovative new products and services and are forced to pay higher prices for lower-quality products than they otherwise would.
- **Are overused by employers and unjustified for low-wage workers:** The coalition argues that the use of non-compete agreements has become unnecessarily widespread. It notes that traditional justifications employers provide for using these restrictive agreements, such as protecting trade secrets or ensuring return on investments in employee training, are not persuasive, particularly for low-wage or hourly workers. Low-wage workers rarely, if ever, have access to trade secrets, are not intensively trained, and are unable to freely negotiate their contracts.

The attorneys general urge the FTC to identify non-compete agreements for low-wage workers as a form of unfair competition and, for the first time, make rules that would limit the circumstances in which these agreements can be used. They also encourage the FTC to begin fighting the abusive use of non-compete agreements immediately through public education and enforcement actions, including in collaboration with state attorneys general, and to continue studying the impact of these agreements in all workplaces.

Joining Attorney General Frosh in leading the comments are the attorneys general of the District of Columbia and Minnesota. They are joined by the attorneys general of California, Delaware, Hawaii, Illinois, Iowa, Maine, Massachusetts, Nevada, New Jersey, New Mexico, New York, Pennsylvania, Puerto Rico, Rhode Island, Virginia, and Washington.