

The Freedom to Compete Act Senator Marco Rubio (FL)

Background: A non-compete agreement is a contractual agreement between an employer and employee that restricts an employee's ability to work for a competitor after the employment relationship ends. Historically, non-compete agreements were used to prevent an employer's trade secrets from being disclosed to competitors by former employees. However, today's non-compete agreements can be found in employment contracts for entry-level, low-wage workers who do not have access to trade secrets. Non-compete agreements limit employment opportunities for those entry-level, low-wage workers to improve their circumstances and negotiate higher wages, benefits, and training.

The Freedom to Compete Act: The Freedom to Compete Act would amend the Fair Labor Standards Act of 1938 (FLSA) to prevent employers from using non-compete agreements in employment contracts for certain non-exempt employees. Specifically, the Freedom to Compete Act would:

- Apply only to employees who do not qualify for the FLSA's minimum wage and overtime exemption for bona fide executive, administrative, professional and outside sales employees;
- Prohibit an employer from enforcing, or threatening to enforce, a non-compete agreement with a non-exempt employee;
- Prohibit an employer from entering into, extending, or renewing a non-compete agreement with a non-exempt employee; and
- Be enforced by the Department of Labor under the existing FLSA framework for minimum wage and overtime violations.

Should you have any questions, or wish to cosponsor, please contact Christina Salazar at Christina_Salazar@rubio.senate.gov.