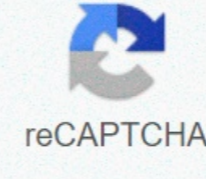




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## How to create a non compete agreement

Non-compete agreements are a vital means of restricting competition between a business and the employees, contractors, or other businesses that it deals with. The agreement prevents the other party from engaging in competitive activities with the business in any city in which the business operates or sells its products and allows you to specify how long this restriction will last after the parties have ended their business relationship. The information below explains how to go about creating an effective non-compete agreement. You will then indicate for how long the obligation not to compete will last. It is important that this restriction not be overly burdensome on the Promisor's ability to obtain employment after the parties end their business relationship. For this reason, courts generally allow restrictions lasting anywhere from three months to two years. If the restriction lasts five or more years, the Promisee will need a very good justification for it, and even then it might still get challenged in court. You will also have the option to beef up your non-compete agreement even more by including non-solicitation clauses. These clauses prohibit the other party from stealing: the business's employees, the business's customers, and other business relationships. Oftentimes a departing employee will try to start a competing business using the business relationships obtained while under the employer. This clause effectively prevents the employee in such a situation from achieving this. Again, however, the duration of the restriction should be as narrowly tailored as is reasonable under the circumstances in order to avoid challenge in court. It is important to limit the scope of these prohibitions as much as possible and not include provisions that you do not need. Basically, do not try to throw in everything and the kitchen sink. For instance, if you merely want to prevent an employee from stealing your customers, then just include the non-solicitation of customers clause, otherwise a court might decide to cut out all your restrictions should a disagreement arise down the road. Review our article [Are Non-Compete Agreements Enforceable in My State?](#) to see if your state has any specific restrictions on non-compete agreements. For instance, many states exempt certain professions from the enforcement of non-compete agreements in order to help those professions prosper. After you finish completing the form, executing your agreement is a simple matter of having both parties sign and date it. Make sure that both parties also get a copy of the agreement, and then you're done! 833 448 1403 Contact Us Arrange to visit small business startup resources Why Have an Agreement? At first glance, non-compete agreements make a lot of sense. Why would you want to make it easy for your employees to jump shark and work for your competitor? If the goal of the agreement is to protect proprietary information, a non-compete agreement may not be necessary. Instead, you should consider a confidentiality agreement -- a kind of agreement that protects your company's personal information, yet doesn't restrict or keep your employees from searching for another job. What State Do You Live In? Even if you work remotely from a virtual office, you still must abide by all local and federal laws. In some states, like North Dakota and Oklahoma, non-compete agreements aren't enforceable. The state of California takes it a step further -- not only are non-compete agreements unenforceable, but an employer who requires employees to sign non-compete agreements can be sued. If you live in the state of California and are still interested in protecting your trade secrets and client lists, you can ask your employees to sign non-disclosure and non-solicitation agreements instead. Is It Reasonable? Because non-compete agreements limit an employee's future options, they must be reasonable in scope. The shorter an agreement is, the more likely a court is to find it reasonable. Generally speaking, an agreement that ranges from six months to two years is generally considered to be reasonable, while anything longer will be met with scrutiny. Similarly, non-compete agreements shouldn't cover too wide of a geographic area or prohibit a former employee from engaging in too many types of businesses. Are You Prepared to Answer Questions? If you decide to include non-compete agreements as part of the onboarding process, you must be prepared to answer any and all questions an employee may have. You should know in what cities and counties the agreement applies to, which companies an employee is not allowed to seek employment with, how long the agreement lasts, what happens if the company is sold or the employee is laid off, and if you'd be willing to negotiate certain terms of the agreement. If you're not prepared to answer these questions right off the bat, you may wish to reconsider a non-compete agreement or become better versed with the restrictions you intend to implement. Will There Be Exceptions? While non-compete agreements can be a valuable asset for your company, they come with their own set of problems. For example, if you introduce the contract to employees who have been loyal to your company for the past five years and they refuse to sign, will you terminate them? In doing so, you'd be doing nothing more than causing the loss that the agreement was meant to avoid in the first place. Do you refuse to hire a star player who refuses to accept an employment offer that comes with a non-compete agreement? The answers to these questions require a great deal of reflection. If you're still interested in the possibility of incorporating non-compete agreements in your company, get feedback from management and the human resources staff, in addition to legal counsel. how to make a non compete agreement. how to write a non compete agreement. how to get a non compete agreement. how to know if you have a non compete agreement

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