



May 3, 2023

Dear Members of the Omnibus Jobs and Labor Conference Committee (Senate File 3035):

On behalf of the Minnesota Business Partnership, the Minnesota Chamber of Commerce, and the National Federation of Independent Business, we appreciate the opportunity to share our opposition to the complete prohibition on non-compete agreements in SF 3035, 3<sup>rd</sup> Engrossment (Article 12 Sec. 2). The House version of SF 3035 does not contain this provision.

Minnesota is home to a diverse economy with innovative businesses of all sizes in every sector. From the manufacture of optic and medical devices to machinery and electrical equipment, ATV vehicles, and aircraft, Minnesota is a worldwide leader in product development and innovation. This diversity is what makes Minnesota's economy unique among its peers and what makes the ability to protect investments in the business so vital.

When done properly, Minnesota courts have long agreed that non-compete agreements are a valid tool for employers to protect legitimate employer interests. Non-compete agreements protect a company's intellectual property, confidential and trade secret information, customer base, and specialized training. The existing non-compete viability test is widely regarded as fair to both employer and employee.

We do not object to adding protections for employees in circumstances where a non-compete agreement is already unenforceable. And many states have taken the approach of setting a wage threshold below which non-compete agreements are deemed inappropriate and not enforceable. This includes Illinois (\$75,000, periodic inflation adjustments), Maine (400% of federal poverty level), Maryland (\$31,200/year), New Hampshire (200% of federal minimum wage), Rhode Island (250% of federal poverty level), and Virginia (statewide average annual wage).

Further, our organizations concur with Minnesota Employment Law Council's recommendations and proposed amendments regarding additional exclusions, prevailing plaintiff attorneys' fees, and clarifying choices of law and venue as articulated in MELC's May 1, 2023 memo to the conference committee.

To remain a hub of innovation, we must protect work environments that foster the free flow of ideas and encourage a culture of innovation.

An outright prohibition on non-compete agreements will disrupt that workplace culture – hindering the free flow of ideas, and stifling innovation in the process. Overly burdensome mandates not only jeopardize employees' hard-earned livelihood but threaten the ingenuity that helps Minnesota businesses thrive.

We appreciate your consideration of our concerns and solutions to protect Minnesota's economy.

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