

New Non-Solicitation Statutory Amendment To Go Into Effect November 1, 2013

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As we have written before, Oklahoma law generally looks with disfavor on contracts that restrict an individual's right to earn a living, such as non-compete agreements. (Although there are some ways such agreements can be crafted to make them more likely to be enforceable.) However, effective November 1, 2013, a new Oklahoma statute will give employers at least one tool to prevent former employees from hurting their businesses.

The new section, codified at 15 Okla. Stat. § 219B, clarifies that employers may prohibit employees (or independent contractors) from wooing away their former coworkers once they leave employment:

A contract or contractual provision which prohibits an employee or independent contractor of a person or business from soliciting, directly or indirectly, actively or inactively, the employees or independent contractors of that person or business to become employees or independent contractors of another person or business shall not be construed as a restraint from exercising a lawful profession, trade or business of any kind.

Restrictions on soliciting an employer's workers still of course have to be part of an otherwise enforceable contract between the employer and contractor or employee. Employers need to be careful that they are not altering the otherwise at-will employment relationship by entering into such agreements.