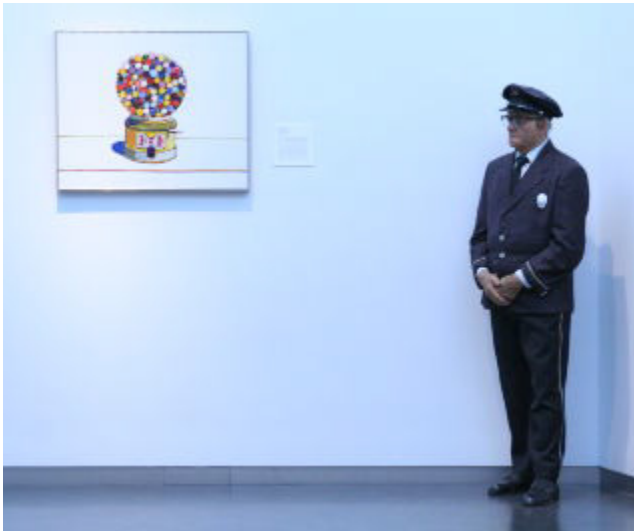


Non-Compete Agreements For Security Guards (and now, Bouncers) May Be “Non-Enforceable”

By [Daniel Schwartz](#) on February 23rd, 2012



With the blog approaching its fifth (!) anniversary later this year, I thought it was time to revisit some subjects that I covered in the blog's infancy and update them.

One such story [from way back on September 14, 2007](#), was a new law that prohibited non-compete agreements by security guards. Back then, I stated:

[The new law] prohibits employers from requiring security officers to “enter into an agreement prohibiting such person from engaging in the same or a similar job, at the same location at which the employer employs such person, for another employer or as a self-employed person”.

(If the employer can “prove” that the employee received trade secrets, then a non-compete can be used.)

The law refers to the [USDOL's Standard Occupational Code for “Security Guards” \(33-9032\)](#) as the covered group.

So what's new? Well, in [2010, the USDOL changed](#) the definition for this code to make it a bit broader.

Previously, this code covered those who “Guard, patrol, or monitor premises to prevent theft, violence, or infractions of rules.”

[The new definition](#), or at least interpretation, covers those beyond the traditional notion of a security guard.

Guard, patrol, or monitor premises to prevent theft, violence, or infractions of rules. May operate x-ray and metal detector equipment. Excludes “Transportation Security Screeners” (33-9093). Illustrative examples: Bodyguard, Bouncer, Bank Guard

There are ways, however, for security companies to protect their workforce from poaching. For example, a security company can still [contract with the company for which it is providing services](#) that any successor security company will not use the predecessor's security guards for a period of time. The law only prohibits the use of non-compete agreements with the security officers themselves.

Regardless, employers should be aware of the restrictions this law places and draft any restrictive covenants to comply with this law.

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