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Franchising Alert

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Virginia bans post-term non-competes in franchise agreements

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Beginning on July 1, 2026, Virginia will prohibit post-term non-competition covenants in franchise agreements and will require Virginia law as the governing law in franchise agreements and any related agreements.



What's the impact?

- Franchisors that operate in Virginia will soon need to use a form of Virginia franchise agreement and/or their Virginia addenda that disclaim the applicability of any post-term non-compete provisions and provide that Virginia law is the governing law for any franchise agreement (and any related agreements).
- Franchise agreements entered into before July 1, 2026, are grandfathered, but any extension, amendment, or renewal on or after that date may trigger the new requirements.
- Franchisors should act now to strengthen alternative protections—including confidentiality, trade secret, and non-solicitation provisions and related operational controls—to mitigate the loss of post-term non-competes for Virginia franchisees.

On April 13, 2026, the Commonwealth of Virginia enacted significant amendments to Virginia's Retail Franchising Act (Va. Code §§ 13.1-557 et seq.). [House Bill 69](#) and its companion [Senate Bill](#)

[240](#), which take effect on **July 1, 2026**, make two major changes that will affect virtually every franchise system with ongoing operations in the Commonwealth: (1) a ban on post-term non-compete provisions in franchise agreements, and (2) a mandatory Virginia governing-law requirement for franchise contracts. This alert summarizes the key changes, highlights important nuances, and outlines practical steps that franchisors should be taking now.

Understanding Virginia franchise laws

Virginia's Retail Franchising Act (the **Act**) has governed the offer and sale of franchises in the Commonwealth since 1972. The Act applies to any franchise that contemplates or requires the franchisee to establish or maintain a place of business within Virginia. Among other things, the Act requires franchise registration with the State Corporation Commission Division of Securities and Retail Franchising (the **Virginia Franchise Division**), prohibits fraudulent and deceptive practices in the sale of franchises, and provides civil remedies for franchisees harmed by violations.

Until now, the Act did not expressly address the enforceability of post-term non-competition covenants in franchise agreements, nor did it mandate that Virginia law govern franchise contracts. The new legislation changes both of those things.

Key change #1: Ban on post-term non-compete provisions

The most consequential amendment adds a new subsection to § 13.1-563, the Act's "unlawful offers" provision. Under the new subsection, it is now **unlawful** for any person, in connection with the sale or offer to sell a franchise in Virginia, to "offer or enter into a franchise agreement that restricts the right of a franchisee to engage in the business of offering, selling, or distributing goods or services at retail after termination or expiration of the franchise agreement." (See Section 13.1-563(A)(4)).

In practical terms, this means that beginning on July 1, 2026, franchise agreements offered to franchisees that operate or intend to operate in Virginia may no longer contain post-term non-compete clauses that prevent a departing franchisee from operating a competing business after the franchise relationship ends. The prohibition applies broadly—it covers restrictions triggered by both termination and expiration of the franchise agreement.

THE NARROW EXCEPTION: NON-COMPETES IN CONNECTION WITH THE SALE OF A FRANCHISE

The new law includes one important carve-out. If a franchisee sells the franchise at a mutually agreed-upon price—whether to a third party or back to the franchisor—the sale transaction may include a non-compete provision restricting the selling franchisee from engaging in a competing retail business for a period of **no more than two years** after the sale (See Section 13.1-563(B)).

However, this exception is narrowly drawn. The exception only applies when there is a voluntary sale at a mutually agreed-upon price; it does not appear to apply in the context of a franchisor-initiated termination, a non-renewal, or an expiration where no sale occurs. Franchisors should note the two-year cap as this may be shorter than the non-compete duration in some existing franchise agreements. Purchasing franchisees should also take note as the two-year cap is shorter than is often desired in a traditional sale of a business.

SOME PROTECTION FOR PROPRIETARY INFORMATION REMAINS

Although this change limits the tools available to franchisors that seek to protect their secret sauce—the proprietary tools, methods, and information that make a franchise special—there are some tools available. For example, this new law does not appear to affect non-solicitation provisions in franchise agreements. In addition, confidentiality and non-disclosure requirements, trade secret protection, and other intellectual property protection tools remain at franchisors' disposal. It is simply incumbent upon each franchisor to determine the components of their system that are protectable using the remaining tools, and to ensure their documents and internal processes are set up to maximize this protection.

Key change #2: mandatory Virginia governing law

The amendments to the Act also add a new subsection D to § 13.1-559, which provides: “Any franchise contract or agreement offered or entered into pursuant to the terms of this chapter shall be governed by the laws of the Commonwealth.”

This is a significant development for franchise systems that have historically designated the law of another state—often the franchisor’s home state—as the governing law in its franchise agreements. For any franchise that falls within the scope of the Act (i.e., one that is entered into on or after July 1, 2026, and contemplates the franchisee maintaining a place of business in Virginia), Virginia law will now govern the franchise contract.

Existing franchise agreements grandfathered

The legislation expressly provides that “nothing in this act shall be construed to alter, modify, or impair any contract entered into, extended, or amended prior to July 1, 2026.” This grandfathering provision protects franchise agreements that are already in place before the effective date. However, the use of the words “extended” and “amended” suggests that any extension or amendment of an existing franchise agreement on or after July 1, 2026, could bring the entire agreement within the scope of the new law. Franchisors should pay close attention to this language when considering renewals, amendments, or extensions of existing franchise agreements after the effective date.

Remedies and enforcement

Because the post-term non-compete ban and the governing-law mandate are embedded in the Act's existing enforcement framework, violations carry the same consequences as other violations of the Act. The Virginia Franchise Division has the authority to revoke or refuse to renew a franchise registration, impose civil penalties of up to \$25,000 per violation, and issue injunctions. Willful violations with intent to defraud may constitute a Class 4 felony, and knowing violations may be prosecuted as misdemeanors punishable by fines up to \$5,000 and up to one year of imprisonment. Franchisees may also pursue private civil remedies, including an action for damages and reasonable attorney's fees.

What should franchisors do now?

With July 1, 2026, approaching quickly, franchisors with Virginia franchisees—or those contemplating franchise sales in Virginia—should consider the following steps:

REVIEW AND REVISE FRANCHISE AGREEMENTS

Franchise agreements offered or entered into on or after July 1, 2026 for Virginia locations must not contain post-term non-compete provisions (except the narrow sale exception described above) and must be governed by Virginia law. Franchisors should work with counsel to revise their Virginia-specific addenda or revised form agreements in advance of the effective date.

EVALUATE THE IMPACT ON FRANCHISE DISCLOSURE DOCUMENTS

Because franchise registration is required in Virginia, franchisors should assess how and when to update their Franchise Disclosure Documents to reflect the new governing-law requirement and the elimination of post-term non-competes for Virginia franchisees. For Franchisors that have already submitted their 2026 Franchise Disclosure Document and related application materials to Virginia and plan to sell in Virginia on or after July 1, 2026, we recommend amending your 2026 Franchise Disclosure Document (along with the franchise agreement) and submitting an amendment application to the Virginia examiners. For those franchisors that have not yet filed, please be aware that the Virginia Franchise Division is likely to require these changes as a condition of registration.

ASSESS THE GRANDFATHERING PROVISION CAREFULLY

While existing agreements entered into before July 1, 2026, are grandfathered, any extension, amendment, or renewal on or after that date may trigger the new requirements. Franchisors should map out upcoming renewal and amendment timelines for Virginia franchisees and plan accordingly.

REVISIT TRADE SECRET AND CONFIDENTIALITY PROTECTIONS

With post-term non-competes largely off the table, franchisors should ensure that their agreements contain robust confidentiality, non-disclosure, non-solicit, and trade secret protections that will survive termination or expiration—protections that are not affected by the new legislation. As we previously recommended in the context of [a possible federal non-compete ban](#), franchisors should work with counsel to review their general practices related to trade secrets and proprietary information to ensure that their operational practices and legal documents provide the maximum protection available under state law, even in the absence of enforceable non-competition covenants.

MONITOR RELATED DEVELOPMENTS

The International Franchise Association (IFA) will host a member briefing on April 29, 2026, regarding the new law and its practical implications. Franchisors and their counsel should monitor guidance from the IFA, the [Virginia Franchise Division](#), and legal developments as the industry adjusts to this new regulatory landscape.

Legal guidance for franchise systems

Virginia's new amendments to the Retail Franchising Act represent a meaningful shift in the franchise regulatory landscape. By banning post-term non-competes and mandating Virginia governing law, the Commonwealth has joined a growing trend of states strengthening protections for franchisees. Franchisors should take action now—well in advance of the July 1, 2026, effective date—to understand these changes and ensure compliance.

If you have questions about how the new Virginia law affects your franchise system, please contact your Nixon Peabody attorney or:

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