

POST-EMPLOYMENT RESTRICTIONS AMENDMENTS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Kirk A. Cullimore

House Sponsor: _____

LONG TITLE

General Description:

This bill modifies provisions related to post-employment restrictive covenants.

Highlighted Provisions:

This bill:

- ▶ modifies the permissible scope of a post-employment restrictive covenant; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

34-51-201, as last amended by Laws of Utah 2019, Chapter 132

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **34-51-201** is amended to read:

34-51-201. Post-employment restrictive covenants.

(1) (a) Except as provided in Subsection (2) and in addition to any requirements imposed under common law, ~~[for a post-employment restrictive covenant entered into]~~ an employer and an employee may not enter into a post-employment restrictive covenant:



28 (i) on or after May 10, 2016, [~~an employer and an employee may not enter into a~~
29 ~~post-employment restrictive covenant~~] for a period of more than one year from the day on
30 which the employee is no longer employed by the employer[:]; or

31 (ii) on or after May 12, 2020, that:

32 (A) is broader than necessary to protect the legitimate business interests of the
33 employer;

34 (B) applies to a geographic area that is larger than the geographic area in which the
35 employer has significant presence or influence; or

36 (C) imposes a hardship on the employee that is undue or is disproportionate to the
37 benefit to the employer.

38 (b) A post-employment restrictive covenant that violates this [~~subsection~~] Subsection
39 (1) is void.

40 (2) (a) Subject to Subsection (2)(b), a post-employment restrictive covenant between a
41 broadcasting company and a broadcasting employee is valid only if:

42 (i) the broadcasting employee is an exempt broadcasting employee;

43 (ii) the post-employment restrictive covenant is part of a written employment contract
44 of reasonable duration, based on industry standards, the position, the broadcasting employee's
45 experience, geography, and the parties' unique circumstances; and

46 (iii) (A) the broadcasting company terminates the broadcasting employee for cause; or

47 (B) the broadcasting employee breaches the employment contract in a manner that
48 results in the broadcasting employee no longer being employed by the broadcasting company.

49 (b) A post-employment restrictive covenant described in Subsection (2)(a) is
50 enforceable for no longer than the earlier of:

51 (i) one year after the day on which the broadcasting employee is no longer employed by
52 the broadcasting company; or

53 (ii) the day on which the original term of the employment contract containing the
54 post-employment restrictive covenant ends.

55 (c) A post-employment restrictive covenant between a broadcasting company and a
56 broadcasting employee that does not comply with this subsection is void.