

**POST-EMPLOYMENT RESTRICTIONS AMENDMENTS**

2016 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Mike Schultz**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill addresses post-employment restrictions.

**Highlighted Provisions:**

This bill:

- ▶ enacts the Post-Employment Restrictions Act, including:
  - defining terms;
  - prohibiting certain post-employment restrictions;
  - outlining enforcement of post-employment restrictions; and
  - addressing remedies.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

ENACTS:

- 34-51-101**, Utah Code Annotated 1953
- 34-51-102**, Utah Code Annotated 1953
- 34-51-201**, Utah Code Annotated 1953
- 34-51-202**, Utah Code Annotated 1953
- 34-51-301**, Utah Code Annotated 1953



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

Section 1. Section **34-51-101** is enacted to read:

**CHAPTER 51. POST-EMPLOYMENT RESTRICTIONS ACT**

**Part 1. General Provisions**

**34-51-101. Title.**

This chapter is known as the "Post-Employment Restrictions Act."

Section 2. Section **34-51-102** is enacted to read:

**34-51-102. Definitions.**

As used in this chapter, "post-employment restriction" means a condition an employer imposes on an employee, whether by agreement, policy, or otherwise, that restricts the employee's actions after termination of employment.

Section 3. Section **34-51-201** is enacted to read:

**Part 2. Post-Employment Restrictions**

**34-51-201. Prohibited post-employment restrictions.**

(1) A post-employment restriction may not include any of the following:

(a) a restriction that, after termination of employment, the employee may not provide products, processes, or services that are similar to the employer's products, processes, or services or otherwise work in the same industry as the employer's for any period that extends beyond the termination of employment;

(b) a restriction that, after termination of employment, the employee may not, either directly or indirectly, own an interest in an entity that provides products, processes, or services that are similar to the employer's products, processes, or services; or

(c) a restriction that gives an employer the right to require an employee to solely and exclusively negotiate an extension of the employment agreement with the employer.

(2) This section may not be interpreted as prohibiting an employer or employee from entering into an employment contract that includes post-employment restrictions not prohibited by this section.

Section 4. Section **34-51-202** is enacted to read:

**34-51-202. Scope of chapter.**

Consistent with this chapter, a court of competent jurisdiction or an arbitrator, if the

59 post-employment restriction provides for arbitration, may determine whether a  
60 post-employment restriction is enforceable.

61 Section 5. Section **34-51-301** is enacted to read:

62 **Part 3. Remedies**

63 **34-51-301. Award of arbitration costs, attorney fees and court costs, and damages.**

64 If an employer seeks to enforce a post-employment restriction through arbitration or by  
65 filing a court action and it is determined that the post-employment restriction is prohibited  
66 under Section [34-51-201](#), the employer is liable for the former employee's:

67 (1) (a) if enforcement is sought through arbitration, costs associated with arbitration; or

68 (b) if the employer files a court action, attorney fees and court costs; and

69 (2) actual damages.

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**Legislative Review Note**  
**Office of Legislative Research and General Counsel**