

HB0203S01 compared with HB0203

{Omitted text} shows text that was in HB0203 but was omitted in HB0203S01

inserted text shows text that was not in HB0203 but was inserted into HB0203S01

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1

Non-Compete Amendments

2026 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Tyler Clancy

Senate Sponsor: Heidi Balderree

2

LONG TITLE

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General Description:

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This bill amends provisions relating to non-compete agreements.

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Highlighted Provisions:

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This bill:

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▶ defines terms;

8

▶ prohibits an employer from enforcing a non-compete agreement against an employee under certain conditions;

9

▶ prohibits a person from enforcing a non-compete agreement against an independent contractor;

10

▶ {prohibits an employer from enforcing a non-compete agreement if the non-compete agreement restricts an employee's ability to work within 25 miles of a geographic location;}

11

▶ requires that an employer presenting an employee with an offer of employment include with the offer of employment a non-compete agreement if the employer intends to enter into a non-compete agreement with the employee;

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▶ imposes requirements on an employer presenting an employee with a non-compete agreement;

13

▶ requires that an employer give an employee advance notice of a non-compete agreement;

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- 22 ▶ makes void a non-compete agreement under certain conditions;
- 23 ▶ provides that a person that fails to comply with provisions that this bill enacts may not enforce a non-compete agreement;
- 25 ▶ {**authorizes the Labor Commission to investigate and issue a fee for violating provisions relating to non-compete agreements;**}
- 27 ▶ grants a right of action to an individual against a person that attempts to enforce an unlawful non-compete agreement; and
- 29 ▶ makes technical changes.

25 **Money Appropriated in this Bill:**

26 None

27 **Other Special Clauses:**

28 None

29 **Utah Code Sections Affected:**

30 AMENDS:

31 **34-51-102** , as last amended by Laws of Utah 2018, Chapter 465

32 **34-51-201** , as last amended by Laws of Utah 2019, Chapter 132

33 **34-51-202** , as enacted by Laws of Utah 2016, Chapter 153

34 **34-51-301** , as enacted by Laws of Utah 2016, Chapter 153

35 REPEALS:

36 **34-51-101** , as enacted by Laws of Utah 2016, Chapter 153

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

39 Section 1. Section **34-51-102** is amended to read:

40 **34-51-102. Definitions.**

As used in this chapter:

47 (1) "Broadcasting employee" means an employee of a broadcasting company.

48 (2) "Broadcasting company" means a person engaged in the business of:

49 (a) distributing or transmitting electronic or electromagnetic signals to the general public using one or more of the following:

51 (i) television;

52 (ii) cable; or

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53 (iii) radio; or

54 (b) preparing, developing, or creating one or more programs or messages for distribution or
transmission by means described in Subsection (2)(a).

56 {③ "Commission" means the Labor Commission created in Section 34A-1-103.}

57 {④} "Exempt broadcasting employee" means a broadcasting employee who is compensated
on a salary basis, as defined in 29 C.F.R. Sec. 541.602, at a rate equal to or greater than the greater
of:

60 (a) \$913 per week, or an equivalent amount if calculated for a period longer than one week; or

62 (b) the rate at which an employee qualifies as exempt under the Fair Labor Standards Act, 29 U.S.C.
Sec. 213(a) on a salary basis as defined in 29 C.F.R. Part 541.

64 {⑤ "Garden leave clause" means a provision in a non-compete agreement where, as a condition for
the enforcement of the non-compete agreement, an employer agrees to continue to pay an employee
100% of the employee's annual compensation for the year in which the non-compete agreement is in
effect.)}

68 (6) "Nonexempt employee" means an employee who is nonexempt under the requirements of the
Fair Labor Standards Act of 1938, 29 U.S.C. 201 et seq.

70 [④] (7){⑤}

71 (a) ["Post-employment restrictive covenant," also known as a "covenant not to compete" or
"noncompete agreement,"] "Non-compete agreement" means an agreement, written or oral,
between an employer and employee under which the employee agrees that on or after the day
on which the employer no longer employs the employee, the employee, either alone or as an
employee of another person, will not compete with the employer in providing [products, processes,
or services] a product, process, or service that [are] is similar to the employer's [products, processes,
or services] product, process, or service.

78 (b) ["Post-employment restrictive covenant"] "Non-compete agreement" does not include:

79 (i) [-] a nonsolicitation [agreements] agreement;

80 (ii) [-or] a nondisclosure agreement;

81 (iii) [-or] a confidentiality [agreements] agreement; or

82 (iv) a training repayment agreement.

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[{5}] (8){(6)} "Sale of a business" means a transfer of the ownership by sale, acquisition, merger, or other method of the tangible or intangible assets of a business entity, or a division or segment of the business entity.

76 Section 2. Section **34-51-201** is amended to read:

77 **34-51-201. Non-compete agreements.**

88 (1) Except as provided in Subsection [{2}] (7) and in addition to any requirements imposed under common law, for a [post-employment restrictive covenant] non-compete agreement entered into on or after May 10, 2016, an employer and an employee may not enter into a [post-employment restrictive covenant] non-compete agreement for a period of more than one year from the day on which the employer no longer employs the employee. [is no longer employed by the employer. A post-employment restrictive covenant that violates this subsection is void.]

95 (2) An employer may not enforce a non-compete agreement entered into on or after May 6, 2026, against an employee if:

97 (a) the employee is:

98 (i) a nonexempt employee;

99 (ii) a student who is enrolled in a full-time or part-time undergraduate or graduate program while engaging in an internship or other short-term employment with an employer; or

102 (iii) eighteen years old or younger;

103 (b) the employee's total earnings from the employer in the most recent calendar year are less than \$155,000; or

105 (c) the employer terminates the employee {without cause; or} as a result of a reduction in force.

106 {**(d) {the non-compete agreement restricts an employee's ability to work more than 25 miles from a specific geographic location.}**}

108 (3) A person may not enforce a non-compete agreement entered into on or after May 6, 2026, against an independent contractor.

110 (4)

(a) Subject to Subsection (5), when making an offer of employment, an employer shall include with the offer of employment to the prospective employee any non-compete agreement the employer intends to enter into with the prospective employee.

114 (b) When including the non-compete agreement with an offer of employment as described in Subsection (4)(a), an employer shall:

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116 (i) present the non-compete agreement in a way that a reasonable individual would understand the non-
compete agreement; and

118 (ii) provide, in the offer of employment or contract, a statutory reference to this section{5}_{6}

120 {(iii) {include a garden leave clause in the non-compete agreement; and}} }

121 {(iv) {present the garden leave clause in a way that a reasonable individual would understand the
garden leave clause.}} }

123 (5) Before entering into a non-compete agreement with an employee, an employer shall provide to the
employee a written notice of the non-compete agreement at least 14 calendar days before the earlier
of the day on which:

126 (a) the employee begins working for the employer; or

127 (b) the non-compete agreement becomes effective.

128 (6)

129 (a) A non-compete agreement that violates Subsections (1) through (3) is void.

131 (b) An employer that does not comply with the requirements of Subsections (4) and (5) may not enforce
the provisions of a non-compete agreement.

131 [(2)] (7)

134 (a) Subject to Subsection [(2)(b)] (7)(b), a [post-employment restrictive covenant] non-compete
agreement between a broadcasting company and a broadcasting employee is valid only if:

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

139 (ii) the [post-employment restrictive covenant] non-compete agreement is part of a written
employment contract of reasonable duration, based on industry standards, the position, the
broadcasting employee's experience, geography, and the parties' unique circumstances; and

(iii)

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

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

144 (b) A [post-employment restrictive covenant] non-compete agreement described in Subsection [(2)
(a)] (7)(a) is enforceable for no longer than the earlier of:

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

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- (ii) the day on which the original term of the employment contract containing the [post-employment restrictive covenant] non-compete agreement ends.
- 150 (c) A [post-employment restrictive covenant] non-compete agreement between a broadcasting company and a broadcasting employee that does not comply with this [subsektion] Subsection (7) is void.
- 153 {~~(8)~~
~~{(a) The commission may investigate a reported violation of this section.}~~
~~{(b) If the commission investigates an alleged violation of this section and determines that a person has violated this section, the commission shall issue a fee to the person for up to \$10,000 per violation.}~~}
- 138 Section 3. Section **34-51-202** is amended to read:
- 139 **34-51-202. Non-compete agreements -- Exceptions.**

- 159 (1) This chapter does not prohibit or affect:
- 160 (a) a reasonable severance agreement mutually and freely agreed upon in good faith at or after the time of termination that includes a [post-employment restrictive covenant. A severance agreement remains subject to any requirements imposed under common law.] non-compete agreement; or
- 164 [(2)] (b) [This chapter does not prohibit a post-employment restrictive covenant] a non-compete agreement related to or arising out of the sale of a business, if the individual subject to the [restrictive covenant] non-compete agreement receives value related to the sale of the business.
- 168 (2) Notwithstanding Subsection (1)(a), a severance agreement remains subject to any requirements imposed under common law.

- 151 Section 4. Section **34-51-301** is amended to read:
- 152 **34-51-301. Award of arbitration costs, attorney fees and court costs, and damages.**
- 174 (1) If an employer seeks to enforce a [post-employment restrictive covenant] non-compete agreement through arbitration[or by filing a civil action] and [it is determined] the arbitrator determines that the [post-employment restrictive covenant is unenforceable, the employer is liable for the employee's] non-compete agreement violates this chapter, the arbitrator shall award the employee:
- 179 [(1)] (a) costs associated with arbitration; and
- 180 [(2)] attorney fees and court costs; and]
- 181 [(3)] (b) actual damages.
- 182 (2)

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(a) An employee or independent contractor has a right of action against a person that seeks to enforce a non-compete agreement that violates this chapter if the employee is a party to the non-compete agreement.

185 (b) If an individual brings an action against a person in accordance with Subsection (2)(a), and a court finds that the non-compete agreement violates this chapter, the court shall award the individual:

188 (i) actual damages;

189 (ii) injunctive relief;

190 (iii) costs associated with arbitration; and

191 (iv) reasonable costs and attorney fees.

173 Section 5. Repealer.

This Bill Repeals:

174 This bill repeals:

175 Section **34-51-101, Title.**

176 Section 6. **Effective date.**

Effective Date.

This bill takes effect on May 6, 2026.

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