



- 28           (i) (A) for which no special skill or talent is involved; and  
29           (B) that may be performed by any other employee of average competence; or  
30           (ii) defined by a court of competent jurisdiction as a common calling.  
31           (b) "Employer" means a person that employs one or more persons.  
32           (c) "Just cause" means that the employee is discharged for:  
33           (i) an act or omission in connection with employment, not constituting a crime, which  
34 is deliberate, willful, or wanton and adverse to the employer's rightful interest; or  
35           (ii) dishonesty constituting a crime, any felony, or class A misdemeanor in connection  
36 with the claimant's work as shown:  
37           (A) by the facts, together with the employee's admission; or  
38           (B) by the employee's conviction of that crime in a court of competent jurisdiction.  
39           (2) Subject to Subsection (3), a contract between an employer and an employee that  
40 restricts or prohibits the employee from competing with the employer after the employee no  
41 longer works for the employer is permitted if:  
42           (a) the contract limits the former employee's ability to compete to the geographical area  
43 where the employee worked; and  
44           (b) the contract does not impose a greater restraint on the employee than is necessary to  
45 protect the former employer's goodwill.  
46           (3) A contract provision described in Subsection (2) may not be enforced if:  
47           (a) the restriction or prohibition in the contract provision is for a period of more than  
48 one year from the day on which the employee is no longer employed by the employer;  
49           (b) the employee is an employee in a common calling;  
50           (c) the employee does not possess skills or talents that are special, unique, or  
51 extraordinary; or  
52           (d) the employee's employment is terminated by the employer without just cause.  
53           (4) If a court finds that any part of a contract provision that restricts or prohibits an  
54 employee from competing with the employer after the employee no longer works for the  
55 employer violates this section, the entire contract provision restricting or prohibiting  
56 competition is unenforceable.

---

---

**Legislative Review Note**

as of 1-14-05 10:45 AM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

**Office of Legislative Research and General Counsel**

---

---

**Fiscal Note**  
**Bill Number SB0113**

**Employee Noncompetition Contracts**

*24-Jan-05*

*10:27 AM*

---

---

**State Impact**

No fiscal impact.

---

**Individual and Business Impact**

In some cases, there could be a significant impact on an individual as a result of the provisions of this bill. The impact will vary from case to case and cannot be estimated.

---

**Office of the Legislative Fiscal Analyst**