

EMPLOYEE NONCOMPETITION CONTRACTS

2007 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Lorie D. Fowlke

Senate Sponsor: _____

LONG TITLE**General Description:**

This bill modifies the Judicial Code to address employee noncompetition contracts.

Highlighted Provisions:

This bill:

- defines terms;
- provides when noncompetition contracts are permissible;
- provides when noncompetition contracts are unenforceable; and
- addresses enforcement when only a portion of the contract violates the statute.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

78-27-66, Utah Code Annotated 1953

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

Section 1. Section **78-27-66** is enacted to read:

78-27-66. Employment related to noncompetition contracts.

(1) As used in this section:



(a) "Common calling" means any employment:

(i) (A) for which no special skill or talent is involved; and

(B) that may be performed by any other employee of average competence; or

(ii) defined by a court of competent jurisdiction as a common calling.

(b) "Employer" means a person that employs one or more persons.

(c) "Just cause" means that the employee is discharged for:

(i) an act or omission in connection with employment, not constituting a crime, which is deliberate, willful, or wanton and adverse to the employer's rightful interest; or

(ii) dishonesty constituting a crime, any felony, or class A misdemeanor in connection with the claimant's work as shown:

(A) by the facts, together with the employee's admission; or

(B) by the employee's conviction of that crime in a court of competent jurisdiction.

(2) Subject to Subsection (3), a contract between an employer and an employee that restricts or prohibits the employee from competing with the employer after the employee no longer works for the employer is permitted if:

(a) the contract limits the former employee's ability to compete to the geographical area where the employee worked; and

(b) the contract does not impose a greater restraint on the employee than is necessary to protect the former employer's goodwill.

(3) A contract provision described in Subsection (2) may not be enforced if:

(a) the restriction or prohibition in the contract provision is for a period of more than one year from the day on which the employee is no longer employed by the employer;

(b) the employee is an employee in a common calling;

(c) the employee does not possess skills or talents that are special, unique, or extraordinary; or

(d) the employee's employment is terminated by the employer without just cause.

(4) If a court finds that any part of a contract provision that restricts or prohibits an employee from competing with the employer after the employee no longer works for the employer violates this section, the entire contract provision restricting or prohibiting competition is unenforceable.

Legislative Review Note
as of 1-24-07 3:29 PM

Office of Legislative Research and General Counsel

H.B. 183 - Employee Noncompetition Contracts

Fiscal Note

2007 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.

1/30/2007, 9:49:06 AM, Lead Analyst: Byrne, D.

Office of the Legislative Fiscal Analyst