

**Senator J. Stuart Adams** proposes the following substitute bill:

**POST-EMPLOYMENT RESTRICTIONS AMENDMENTS**

2016 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Mike Schultz**

Senate Sponsor: J. Stuart Adams

6	Cosponsors:	Gregory H. Hughes	Paul Ray
7	Rebecca Chavez-Houck	Don L. Ipson	Angela Romero
8	Scott H. Chew	Michael S. Kennedy	Scott D. Sandall
9	Kim Coleman	Brad King	V. Lowry Snow
10	Susan Duckworth	Brian S. King	Robert M. Spendlove
11	Justin L. Fawson	John Knotwell	Jon E. Stanard
12	Francis D. Gibson	Daniel McCay	Norman K Thurston
13	Brian M. Greene	Michael E. Noel	Brad R. Wilson
14	Timothy D. Hawkes	Derrin Owens	
15	Sandra Hollins	Marie H. Poulson	



**LONG TITLE**

**General Description:**

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

**Highlighted Provisions:**

This bill:

- ▶ enacts the Post-Employment Restrictions Act, including:
  - defining terms;
  - addressing post-employment restrictive covenants; and



25 • addressing remedies.

26 **Money Appropriated in this Bill:**

27 None

28 **Other Special Clauses:**

29 None

30 **Utah Code Sections Affected:**

31 ENACTS:

32 **34-51-101**, Utah Code Annotated 1953

33 **34-51-102**, Utah Code Annotated 1953

34 **34-51-201**, Utah Code Annotated 1953

35 **34-51-301**, Utah Code Annotated 1953



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

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

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

40 **Part 1. General Provisions**

41 **34-51-101. Title.**

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

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

44 **34-51-102. Definition.**

45 As used in this chapter, "post-employment restrictive covenant," also known as a  
46 "covenant not to compete" or "non compete agreement," means an agreement, written or oral,  
47 between an employer and employee under which the employee agrees that the employee, either  
48 alone or as an employee of another person, will not compete with the employer in providing  
49 products, processes, or services that are similar to the employer's products, processes, or  
50 services.

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

52 **Part 2. Scope of Post-Employment Restrictions**

53 **34-51-201. Post-employment restrictive covenants.**

54 An employer and an employee may not enter into a post-employment restrictive  
55 covenant for a period of more than one year from the day on which the employee is no longer

56 employed by the employer. A post-employment restrictive covenant that violates this section is  
57 void.

58 Section 4. Section **34-51-301** is enacted to read:

59 **Part 3. Remedies**

60 **34-51-301. Award of arbitration costs, attorney fees and court costs, and damages.**

61 (1) Subject to the other provisions of this section, if an employer that seeks to enforce a  
62 post-employment restrictive covenant through arbitration or by filing a civil action and it is  
63 determined that the post-employment restrictive covenant is unenforceable, the employer is  
64 liable for the employee's:

65 (a) costs associated with arbitration;

66 (b) attorney fees and court costs; and

67 (c) actual damages.

68 (2) This section only applies to an employer who employs 20 or more employees  
69 within the state for each working day in each of 20 calendar weeks or more in the current or  
70 preceding calendar year.