

HB0251S10 compared with HB0251S08

~~deleted text~~ shows text that was in HB0251S08 but was deleted in HB0251S10.

inserted text shows text that was not in HB0251S08 but was inserted into HB0251S10.

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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

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

LONG TITLE

General Description:

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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;
 - addressing exceptions; 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

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. Definition.

As used in this chapter ~~f.:~~:

(1) (a) "~~post-employment~~ **Post-employment** restrictive covenant," also known as a "covenant not to compete" or "~~non-compet~~ **noncompete** agreement," means an agreement,

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written or oral, between an employer and employee under which the employee agrees that the employee, either alone or as an employee of another person, will not compete with the employer in providing products, processes, or services that are similar to the employer's products, processes, or services.

(b) "Post-employment restrictive covenant" does not include nonsolicitation agreements or nondisclosure or confidentiality agreements.

(2) "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.

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

Part 2. Scope of Post-Employment Restrictions

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

~~{An}~~In addition to any requirements imposed under common law, an employer and an employee may not enter into a post-employment restrictive covenant for a period of more than one year from the day on which the employee is no longer employed by the employer. A post-employment restrictive covenant that violates this section is void.

Section 4. Section ~~{34-51-301}~~34-51-202 is enacted to read:

34-51-202. Exceptions.

(1) This chapter does not prohibit 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.

(2) This chapter does not prohibit a restrictive covenant related to or arising out of the sale of a business, if the individual subject to the restrictive covenant receives value from the transaction.

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

Part 3. Remedies

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

~~{(1) Subject to the other provisions of this section, if}~~If an employer { that } seeks to enforce a post-employment restrictive covenant through arbitration or by filing a civil action and it is determined that the post-employment restrictive covenant is unenforceable, the

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employer is liable for the employee's:

~~(a)1~~ costs associated with arbitration;

~~(b)2~~ attorney fees and court costs; and

~~(c)3~~ actual damages.

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

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