

**Representative Brian M. Greene** proposes the following substitute bill:

**POST-EMPLOYMENT RESTRICTIVE COVENANT**

**AMENDMENTS**

2017 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Brian M. Greene**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

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

**Highlighted Provisions:**

This bill:

- ▶ outlines the scope of the chapter;
- ▶ addresses consideration and termination of employment as they relate to post-employment restrictive covenants;
- ▶ restricts the time for bringing an action to enforce post-employment restrictive covenants; and
- ▶ makes technical changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**34-51-201**, as enacted by Laws of Utah 2016, Chapter 153



26 ENACTS:

27 **34-51-103**, Utah Code Annotated 1953

28 **34-51-302**, Utah Code Annotated 1953

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

31 Section 1. Section **34-51-103** is enacted to read:

32 **34-51-103. Scope of chapter.**

33 (1) Consistent with this chapter, a court of competent jurisdiction determines whether a  
34 post-employment restrictive covenant is enforceable.

35 (2) Notwithstanding Subsection (1), nothing in this chapter prohibits an employer or  
36 employee from seeking to enforce or challenge a post-employment restrictive covenant through  
37 arbitration.

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

39 **34-51-201. Post-employment restrictive covenants.**

40 (1) In addition to any requirements imposed under common law, for a  
41 post-employment restrictive covenant entered into on or after May 10, 2016, an employer and  
42 an employee may not enter into a post-employment restrictive covenant for a period of more  
43 than one year from the day on which the employee is no longer employed by the employer.

44 (2) (a) An employer may not enforce a post-employment restrictive covenant against an  
45 employee if:

46 (i) at the time the post-employment restrictive covenant is executed, the employee:

47 (A) is employed by the employer; and

48 (B) does not receive new consideration such as an increase in wages or a promotion; or

49 (ii) without cause, the employer terminates the employment of the employee within six  
50 months of the date on which the employee executes the post-employment restrictive covenant.

51 (b) For purposes of Subsection (2)(a)(i), continuation of employment of an existing  
52 employee is not consideration for a post-employment restrictive covenant.

53 (3) A post-employment restrictive covenant that violates this section is void.

54 Section 3. Section **34-51-302** is enacted to read:

55 **34-51-302. Timing of action.**

56 An employer may not bring an action to enforce a post-employment restrictive covenant

57 after the day on which the time period stated in the post-employment restrictive covenant  
58 expires.