

# HB0081S01 compared with HB0081

~~{deleted text}~~ shows text that was in HB0081 but was deleted in HB0081S01.

Inserted text shows text that was not in HB0081 but was inserted into HB0081S01.

**DISCLAIMER:** This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

~~{POST-EMPLOYMENT 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;

~~{~~ → modifies remedy provisions;

- ~~}~~ ▶ restricts the time for bringing an action to enforce post-employment restrictive covenants; and

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- ▶ 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

~~{ **34-51-301**, as enacted by Laws of Utah 2016, Chapter 153~~

#### ENACTS:

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

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

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

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

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

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

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

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

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

(1) In addition to any requirements imposed under common law, for a post-employment restrictive covenant entered into on or after May 10, 2016, 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.

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

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

(A) is employed by the employer; and

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

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

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

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

Section 3. Section ~~{34-51-301}~~ 34-51-302 is ~~{amended to read:~~

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

~~———— If an employer 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 employer is liable for [the employee's]:~~

~~———— (1) the employee's costs associated with arbitration;~~

~~———— (2) the employee's attorney fees and court costs; and~~

~~———— (3) three times the amount of actual damages.~~

~~———— Section 4. Section 34-51-302 is enacted to read:~~

~~{enacted to read:~~

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

An employer may not bring an action to enforce a post-employment restrictive covenant after the day on which the time period stated in the post-employment restrictive covenant expires.

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**Legislative Review Note**

**Office of Legislative Research and General Counsel}**