

HB0241S01 compared with HB0241

~~{deleted text}~~ shows text that was in HB0241 but was deleted in HB0241S01.

Inserted text shows text that was not in HB0241 but was inserted into HB0241S01.

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~~{POST-EMPLOYMENT}~~ Representative Mike Schultz proposes the following substitute bill:

POST-EMPLOYMENT RESTRICTIONS AMENDMENTS

2018 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Mike Schultz

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies provisions of the Post-employment Restrictions Act.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ ~~{prohibits an employer}~~ addresses the circumstances and ~~{an employee from entering into}~~ conditions under which a post-employment restrictive covenant ~~{if the employer's primary business}~~ between a broadcasting company and a broadcasting employee is ~~{news media}~~ valid; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

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Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

34-51-102, as enacted by Laws of Utah 2016, Chapter 153

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

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

Section 1. Section **34-51-102** is amended to read:

34-51-102. Definitions.

As used in this chapter:

(1) ~~{(a) "News media" means a printed, photographic,}~~ "Broadcasting employee" means an employee of a broadcasting company.

(2) "Broadcasting company" means a person engaged in the business of:

(a) distributing or transmitting electronic or electromagnetic ~~{, or electronic means of disseminating news}~~ signals to the general public~~};~~

~~_____ (b) "News media" includes a newspaper, magazine, press association, news agency, wire service, radio station, television station, and television network;~~

~~_____ [(1)] (2) using one or more of the following:~~

(i) television;

(ii) cable; or

(iii) radio; or

(b) preparing, developing, or creating one or more programs or messages for distribution or transmission by means described in Subsection (2)(a).

(3) "Exempt broadcasting employee" means a broadcasting employee who is exempt under the Fair Labor Standards Act, 29 U.S.C. Sec. 213(a) on a salary basis as defined in 29 C.F.R. Part 541.

[(1)] (4) (a) "Post-employment restrictive covenant," also known as a "covenant not to compete" or "noncompete agreement," means an agreement, 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,

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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)]~~ ~~(3)(5)~~ "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 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) ~~† An employer and an employee may not enter into;~~ (a) Subject to Subsection (2)(b), a post-employment restrictive covenant ~~† if the employer's primary business is news media~~ between a broadcasting company and a broadcasting employee is valid only if:

(i) the broadcasting employee is an exempt broadcasting employee;

(ii) the post-employment restrictive covenant is part of a written employment contract with a term of no more than four years; and

(iii) (A) the broadcasting company terminates the broadcasting employee for cause; or

(B) the broadcasting employee breaches the employment contract in a manner that results in the broadcasting employee no longer being employed by the broadcasting company.

(b) A post-employment restrictive covenant described in Subsection (2)(a) is enforceable for no longer than the earlier of:

(i) one year after the day on which the broadcasting employee is no longer employed by the broadcasting company; or

(ii) the day on which the term of the employment contract would have ended but for the event described in Subsection (2)(a)(iii).

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

†

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Legislative Review Note

Office of Legislative Research and General Counsel