

NONCOMPETITION AGREEMENT AMENDMENTS

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Brian M. Greene

Senate Sponsor: _____

LONG TITLE

General Description:

This bill enacts provisions related to noncompetition agreements.

Highlighted Provisions:

This bill:

▶ enacts the Noncompetition Agreement Act, including:

- defining terms;
- outlining scope of the act;
- addressing noncompetition agreements and existing employees;
- restricting time of bringing an action to enforce a noncompetition agreement;

and

- providing for 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

34-51-103, Utah Code Annotated 1953



28 [34-51-201](#), Utah Code Annotated 1953
 29 [34-51-202](#), Utah Code Annotated 1953
 30 [34-51-203](#), Utah Code Annotated 1953



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

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

34 **CHAPTER 51. NONCOMPETITION AGREEMENT ACT**

35 **Part 1. General Provisions**

36 **34-51-101. Title.**

37 This chapter is known as the "Noncompetition Agreement Act."

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

39 **34-51-102. Definitions.**

40 As used in this chapter, "noncompetition agreement" means an agreement between an
 41 employer and employee under which the employee agrees that the employee, either alone or as
 42 an employee of another person, will not compete with the employer in providing products,
 43 processes, or services that are similar to the employer's products, processes, or services for a
 44 period of time or within a specified geographic area after termination of employment.

45 Section 3. Section **34-51-103** is enacted to read:

46 **34-51-103. Scope of chapter.**

47 Consistent with this chapter, a court of competent jurisdiction determines whether a
 48 noncompetition agreement is enforceable.

49 Section 4. Section **34-51-201** is enacted to read:

50 **Part 2. Enforcement of Agreements**

51 **34-51-201. Enforcement of agreement with existing employee.**

52 (1) An employer may not enforce a noncompetition agreement against an employee if:

53 (a) at the time the noncompetition agreement is executed, the employee:

54 (i) is employed by the employer; and

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

56 (b) without cause, the employer terminates the employment of the employee within one
 57 year of the date on which the employee executes the noncompetition agreement.

58 (2) For purposes of Subsection (1)(a)(ii), continuation of employment of an existing

59 employee is not new consideration for a noncompetition agreement.

60 Section 5. Section **34-51-202** is enacted to read:

61 **34-51-202. Timing of action.**

62 An employer may not bring an action to enforce a noncompetition agreement after the
63 day on which the time period stated in the noncompetition agreement expires.

64 Section 6. Section **34-51-203** is enacted to read:

65 **34-51-203. Remedies.**

66 If an employee prevails in an action to enforce a noncompetition agreement against the
67 employee, the court shall award the employee an amount equal to the sum of:

68 (1) court costs;

69 (2) attorney fees; and

70 (3) three times the amount of actual damages.

Legislative Review Note
Office of Legislative Research and General Counsel