

**Effective 5/10/2016**

## **Chapter 51 Post-employment Restrictions Act**

### **Part 1 General Provisions**

**34-51-101 Title.**

This chapter is known as the "Post-Employment Restrictions Act."

Enacted by Chapter 153, 2016 General Session

**34-51-102 Definition.**

As used in this chapter:

- (1)
  - (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, 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.

Enacted by Chapter 153, 2016 General Session

### **Part 2 Scope of Post-employment Restrictions**

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

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

Enacted by Chapter 153, 2016 General Session

**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 post-employment restrictive covenant related to or arising out of the sale of a business, if the individual subject to the restrictive covenant receives value related to the sale of the business.

Enacted by Chapter 153, 2016 General Session

### **Part 3 Remedies**

#### **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) costs associated with arbitration;
- (2) attorney fees and court costs; and
- (3) actual damages.

Enacted by Chapter 153, 2016 General Session