

# State of South Dakota

EIGHTY-SEVENTH SESSION  
LEGISLATIVE ASSEMBLY, 2012

298T0147

## HOUSE BILL NO. 1004

Introduced by: Representatives Kloucek, Hubbel, Hunhoff (Bernie), Kirschman, Lucas, Nelson (Stace), Russell, Sigdestad, and Stricherz and Senators Putnam, Bradford, Frerichs, Hundstad, and Sutton

1 FOR AN ACT ENTITLED, An Act to reduce the term allowed for covenants not to compete.

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 Section 1. That § 53-9-11 be amended to read as follows:

4 53-9-11. An employee may agree with an employer at the time of employment or at any time  
5 during ~~his~~ the employment not to engage directly or indirectly in the same business or profession  
6 as that of ~~his~~ the employer for any period not exceeding ~~two years~~ one year from the date of  
7 termination of the agreement and not to solicit existing customers of the employer within a  
8 specified county, first or second class municipality, or other specified area for any period not  
9 exceeding ~~two years~~ one year from the date of termination of the agreement, if the employer  
10 continues to carry on a like business therein.

11 Section 2. That § 53-9-12 be amended to read as follows:

12 53-9-12. Any independent contractor who is an insurance producer as defined in subdivision  
13 58-1-2(16) and is a captive agent who is not an independent agent and who works exclusively  
14 for a single insurance company or an affiliated group of insurance companies, even if the single



1 insurance company allows its captive agents to market the products of another insurance  
2 company pursuant to contract, may agree with an insurer at the time of contracting or at any time  
3 during the term of the contract:

4 (1) Not to engage directly or indirectly in the same business or profession as that of the  
5 insurer for any period not exceeding ~~two years~~ one year from the date of termination  
6 of the independent contractor's agreement with the insurer; and

7 (2) Not to solicit existing customers of the insurer within a specified county, first or  
8 second class municipality, or other specified area for any period not exceeding ~~two~~  
9 years one year from the date of termination of the agreement, if the insurer continues  
10 to carry on a like business within the specified area.