

HOUSE BILL 2513

By Powell

AN ACT to amend Tennessee Code Annotated, Title 8 and Title 50, relative to employment.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 50, Chapter 1, is amended by adding the following new part:

50-1-1101. Short title.

This part is known and may be cited as the "Freedom to Work Act."

50-1-1102. Part definitions.

As used in this part:

(1) "Post-employment restrictive covenant":

(A) 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; and

(B) Does not include nonsolicitation agreements, or nondisclosure or confidentiality agreements; and

(2) "Sale of 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.

50-1-1103. Post-employment restrictive covenants.

Except as provided in this part, and in addition to any requirements imposed under common law, for a post-employment restrictive covenant entered into on or after

the effective date of this act, an employer and an employee shall not enter into a post-employment restrictive covenant for a period of more than one (1) 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.

50-1-1104. Exceptions.

(a) This part does not prohibit a 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.

(b) This part 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.

50-1-1105. Prohibited post-employment restrictive covenants.

An employer shall not enter or attempt to enter into a post-employment restrictive covenant with an employee whose compensation is less than two hundred percent (200%) of the minimum wage required by applicable minimum wage laws. Such post-employment restrictive covenants are void.

50-1-1106. Award of arbitration costs, attorney fees, 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, then the employer is liable for the employee's:

- (1) Costs associated with arbitration;
- (2) Attorney fees and court costs; and
- (3) Actual damages.

SECTION 2. The headings to sections in this act are for reference purposes only and do not constitute a part of the law enacted by this act. However, the Tennessee Code Commission is requested to include the headings in any compilation or publication containing this act.

SECTION 3. This act shall take effect upon becoming a law, the public welfare requiring it.