



State of Wisconsin
2021 - 2022 LEGISLATURE

LRB-5079/1
JAM:amn

2021 SENATE BILL 708

November 19, 2021 - Introduced by Senators NASS, MARKLEIN, STROEBEL, BERNIER and FELZKOWSKI, cosponsored by Representatives VANDERMEER, NEYLON, MAGNAFICI, ALLEN, CABRAL-GUEVARA, DITTRICH, HORLACHER, KNODL, MOSES, PLUMER, SORTWELL, THIESFELDT and WICHGERS. Referred to Committee on Labor and Regulatory Reform.

AUTHORS SUBJECT TO CHANGE

1 **AN ACT to renumber and amend** 103.465; and **to create** 103.465 (2) of the
2 statutes; **relating to:** restrictive covenants applicability.

Analysis by the Legislative Reference Bureau

Under current law, a covenant by an assistant, servant, or agent not to compete with his or her employer or principal during the term of the employment or agency, or after the termination of that employment or agency, within a specified territory and during a specified time is lawful and enforceable only if the restrictions imposed are reasonably necessary for the protection of the employer or principal. Any such covenant imposing an unreasonable restraint is illegal, void, and unenforceable even as to any part of the covenant or performance that would be a reasonable restraint.

This bill provides that a covenant by an assistant, servant, or agent not to compete with his or her employer or principal after the termination of that employment or agency within a specified territory and during a specified time is considered an unreasonable restraint and is considered illegal, void, and unenforceable if the employer or principal employs at least 100 employees and the assistant, servant, or agent is terminated from that employment or agency for choosing not to receive a COVID-19 vaccine, or for refusing to provide information regarding the individual's COVID-19 vaccination status.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SENATE BILL 708**SECTION 1**

1 **SECTION 1.** 103.465 of the statutes is renumbered 103.465 (1) and amended to
2 read:

3 103.465 (1) A covenant by an assistant, servant or agent not to compete with
4 his or her employer or principal during the term of the employment or agency, or after
5 the termination of that employment or agency, within a specified territory and
6 during a specified time is lawful and enforceable only if the restrictions imposed are
7 reasonably necessary for the protection of the employer or principal. Any covenant,
8 described in this section, subsection imposing an unreasonable restraint is illegal,
9 void and unenforceable even as to any part of the covenant or performance that would
10 be a reasonable restraint.

11 **SECTION 2.** 103.465 (2) of the statutes is created to read:

12 103.465 (2) Notwithstanding sub. (1), a covenant by an assistant, servant, or
13 agent not to compete with his or her employer or principal after the termination of
14 that employment or agency within a specified territory and during a specified time
15 shall be considered an unreasonable restraint and shall be considered illegal, void,
16 and unenforceable if the employer or principal employs at least 100 employees and
17 the assistant, servant, or agent is terminated from such employment or agency for
18 choosing not to receive a COVID-19 vaccine, or for refusing to provide information
19 regarding his or her COVID-19 vaccination status.

20 **SECTION 3. Initial applicability.**

21 (1) **RESTRICTIVE COVENANTS IN EMPLOYMENT AND AGENCY RELATIONSHIPS.** This act
22 first applies to a covenant entered into or extended, modified, or renewed on the
23 effective date of this subsection.

24

(END)