

2001 ASSEMBLY BILL 408

May 18, 2001 – Introduced by Representatives SCHNEIDER and SINICKI. Referred to Committee on Labor and Workforce Development.

1 **AN ACT to renumber and amend** 103.465; and **to create** 103.465 (1) of the
2 statutes; **relating to:** covenants not to compete with an employer or principal
3 after the termination of the employment or agency.

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 the 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. Such a covenant that imposes an unreasonable restraint of trade, however, is illegal, void, and unenforceable even as to any part of the covenant that would be a reasonable restraint of trade.

This bill declares that a covenant by an assistant, servant, or agent not to compete with his or her employer *after* the termination of the employment or agency is *per se* an unreasonable restraint of trade and is illegal, void, and unenforceable even as to any part of the covenant that would be a reasonable restraint of trade.

For further information see the ***state and local*** fiscal estimate, which will be printed as an appendix to this bill.

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

ASSEMBLY BILL 408

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

3 103.465 **(2)** COVENANTS NOT TO COMPETE DURING EMPLOYMENT. A covenant by an
4 assistant, servant, or agent not to compete with his or her employer or principal
5 during the term of the employment or agency, ~~or after the termination of that~~
6 ~~employment or agency,~~ within a specified territory and during a specified time is
7 lawful and enforceable only if the restrictions imposed are reasonably necessary for
8 the protection of the employer or principal. Any covenant, ~~described in this~~
9 ~~subsection, imposing not to compete with an employer or principal during the term~~
10 of the employment or agency that imposes an unreasonable restraint of trade is
11 illegal, void, and unenforceable even as to any part of the covenant or performance
12 that would be a reasonable restraint of trade.

13 **SECTION 2.** 103.465 (1) of the statutes is created to read:

14 103.465 **(1)** COVENANTS NOT TO COMPETE AFTER TERMINATION OF EMPLOYMENT. A
15 covenant by an assistant, servant, or agent not to compete with his or her employer
16 or principal after the termination of the employment or agency imposes an
17 unreasonable restraint of trade and is illegal, void, and unenforceable even as to any
18 part of the covenant or performance that would be a reasonable restraint of trade.

19 **SECTION 3. Initial applicability.**

20 (1) COVENANTS NOT TO COMPETE AFTER TERMINATION OF EMPLOYMENT. This act first
21 applies to an assistant, servant, or agent who, on the day before the effective date of
22 this subsection, is bound by a covenant not to compete with his or her employer or
23 principal after the termination of the employment or agency on the day on which the
24 covenant expires or is extended, modified, or renewed, whichever occurs first.

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(END)