

**2001 DRAFTING REQUEST**

**Bill**

Received: **02/07/2001**

Received By: **malaigm**

Wanted: **As time permits**

Identical to LRB:

For: **Marlin Schneider (608) 266-0215**

By/Representing: **Memo**

This file may be shown to any legislator: **NO**

Drafter: **malaigm**

May Contact:

Alt. Drafters:

Subject: **Employ Priv - miscellaneous**

Extra Copies:

**Pre Topic:**

No specific pre topic given

**Topic:**

Noncompete agreements

**Instructions:**

See Attached--Ban noncompete agreements.

**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	malaigm 02/08/2001	jdyer 02/08/2001		_____			S&L
/1			pgreensl 02/09/2001	_____	lrb_docadmin 02/09/2001	lrb_docadmin 03/08/2001	

FE Sent For:

<END>

→ At Intro.

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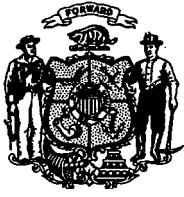
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1/?	malaigm	1 2/8 jld	2/9 pg	2/9 self			

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State of Wisconsin  
2001 - 2002 LEGISLATURE

LRB-2419/3  
GMM...:x:...  
Jid

1 AN ACT <sup>gen</sup>...; relating to: covenants not to compete with an employer or principal  
2 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:*

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

1           103.465 (2) COVENANTS NOT TO COMPETE DURING EMPLOYMENT.<sup>✓</sup> A covenant by an  
 2 assistant, servant, or agent not to compete with his or her employer or principal  
 3 during the term of the employment or agency, ~~or after the termination of that~~  
 4 ~~employment or agency~~, within a specified territory and during a specified time is  
 5 lawful and enforceable only if the restrictions imposed are reasonably necessary for  
 6 the protection of the employer or principal. Any covenant, ~~described in this~~  
 7 ~~subsection, imposing~~ not to compete with an employer or principal during the term  
 8 of the employment or agency that imposes an unreasonable restraint of trade is  
 9 illegal, void, and unenforceable even as to any part of the covenant or performance  
 10 that would be a reasonable restraint of trade.<sup>✓</sup>

History: 1995 a. 225; 1997 a. 253.

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

12           103.465 (1) COVENANTS NOT TO COMPETE AFTER TERMINATION OF EMPLOYMENT. A  
 13 covenant by an assistant, servant, or agent not to compete with his or her employer  
 14 or principal after the termination of the employment or agency imposes an  
 15 unreasonable restraint of trade and is illegal, void, and unenforceable even as to any  
 16 part of the covenant or performance that would be a reasonable restraint of trade.

17           **SECTION 3. Initial applicability.**

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

23           (END)



# State of Wisconsin

## LEGISLATIVE REFERENCE BUREAU

100 NORTH HAMILTON STREET  
5TH FLOOR  
MADISON, WI 53701-2037

STEPHEN R. MILLER  
CHIEF

LEGAL SECTION: (608) 266-3561  
LEGAL FAX: (608) 264-8948

February 9, 2001

### MEMORANDUM

To: Representative Schnicker

From: Gordon M. Malaise, Senior Legislative Attorney

Re: LRB-2419 Noncompete agreements

The attached draft was prepared at your request. Please review it carefully to ensure that it is accurate and satisfies your intent. If it does and you would like it jacketed for introduction, please indicate below for which house you would like the draft jacketed and return this memorandum to our office. If you have any questions about jacketing, please call our program assistants at 266-3561. Please allow one day for jacketing.

JACKET FOR ASSEMBLY  JACKET FOR SENATE

If you have any questions concerning the attached draft, or would like to have it redrafted, please contact me at (608) 266-9738 or at the address indicated at the top of this memorandum.

If the last paragraph of the analysis states that a fiscal estimate will be prepared, the LRB will request that it be prepared after the draft is introduced. You may obtain a fiscal estimate on the attached draft before it is introduced by calling our program assistants at 266-3561. Please note that if you have previously requested that a fiscal estimate be prepared on an earlier version of this draft, you will need to call our program assistants in order to obtain a fiscal estimate on this version before it is introduced.

Please call our program assistants at 266-3561 if you have any questions regarding this memorandum.