2007 ASSEMBLY BILL 705

January 18, 2008 – Introduced by Representatives J. OTT, STONE, SCHNEIDER, HAHN, ALBERS, MUSSER and NASS, cosponsored by Senators ERPENBACH and OLSEN. Referred to Committee on Judiciary and Ethics.

AN ACT to renumber and amend 103.465; and to create 103.465 (2) of the statutes; relating to: covenants by persons employed as on−air broadcasters on radio and television not to compete with an employer or principal after the termination of the employment or agency for any reason other than voluntary resignation or discharge for just cause.

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

This bill declares that a covenant by an assistant, servant, or agent who is employed as an on−air broadcaster on radio or television (on−air broadcaster) not to compete with his or her employer after the termination of the employment or agency for any reason other than voluntary resignation or discharge for just cause, including termination due to layoff, nonrenewal or cancellation of the employment contract without just cause, or resignation because of a reduction in wages, hours, or other conditions of employment, is per se an unreasonable restraint and is illegal, void, and unenforceable even as to any part of the covenant that would be a reasonable
restraint. Under the bill, a covenant by an on-air broadcaster not to compete with his or her employer after the termination of the employment or agency, due to voluntary resignation or discharge for just cause, within a specified territory and during a specified time remains lawful and enforceable if the restrictions imposed are reasonably necessary for the protection of the employer or principal and remains illegal, void, and unenforceable if the covenant imposes an unreasonable restraint.

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

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

103.465 (1) COVENANTS NOT TO COMPETE; GENERALLY. A Subject to sub. (2), 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 covenant described in this subsection, 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.

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

103.465 (2) COVENANTS NOT TO COMPETE; ON-AIR BROADCASTERS. (a) A covenant by an assistant, servant, or agent who is employed as an on-air broadcaster on radio or television not to compete with his or her employer or principal after the termination of the employment or agency, due to voluntary resignation or discharge for just cause, 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 covenant described in this paragraph
that imposes an unreasonable restraint is illegal, void, and unenforceable even as to any part of the covenant or performance that would be a reasonable restraint.

(b) A covenant by an assistant, servant, or agent who is employed as an on-air broadcaster on radio or television not to compete with his or her employer or principal after the termination of the employment or agency for any reason other than voluntary resignation or discharge for just cause, including termination due to layoff, nonrenewal or cancellation of the employment contract without just cause, or resignation because of a reduction in wages, hours, or conditions of employment, imposes an unreasonable restraint and is illegal, void, and unenforceable even as to any part of the covenant or performance that would be a reasonable restraint.

SECTION 3. Initial applicability.

(1) COVENANTS NOT TO COMPETE; ON-AIR BROADCASTERS. This act first applies to a covenant by an assistant, servant, or agent who is employed as an on-air broadcaster on radio or television not to compete with his or her employer or principal after the termination of the employment or agency that is entered into, or is extended, modified, or renewed, on the effective date of this subsection.