



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.

1 **AN ACT** *to renumber and amend* 103.465; and *to create* 103.465 (2) of the
2 statutes; **relating to:** covenants by persons employed as on-air broadcasters
3 on radio and television not to compete with an employer or principal after the
4 termination of the employment or agency for any reason other than voluntary
5 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

ASSEMBLY BILL 705

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:

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

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

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

13 103.465 (2) COVENANTS NOT TO COMPETE; ON-AIR BROADCASTERS. (a) A covenant
14 by an assistant, servant, or agent who is employed as an on-air broadcaster on radio
15 or television not to compete with his or her employer or principal after the
16 termination of the employment or agency, due to voluntary resignation or discharge
17 for just cause, within a specified territory and during a specified time is lawful and
18 enforceable only if the restrictions imposed are reasonably necessary for the
19 protection of the employer or principal. Any covenant described in this paragraph

ASSEMBLY BILL 705

1 that imposes an unreasonable restraint is illegal, void, and unenforceable even as to
2 any part of the covenant or performance that would be a reasonable restraint.

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

11 **SECTION 3. Initial applicability.**

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

17 (END)