

Legislative Analysis



NON-COMPETE CONTRACTS & AGREEMENTS: BAN FOR BROADCAST EMPLOYEES

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House Bill 5750

Sponsor: Rep. Fred Miller

Committee: Judiciary

Complete to 6-29-10

A SUMMARY OF HOUSE BILL 5750 AS INTRODUCED 1-19-10

The bill would prohibit an owner or operator of a broadcast television or radio station from requiring certain employees (primarily "on-air talent") from signing non-compete contracts or agreements.

Section 4a of the Michigan Antitrust Reform Act allows an employer to obtain from an employee an agreement that prohibits the employee from working in that profession after termination of employment if the agreement is reasonable as to its duration, geographical area, and the type of employment or line of business that will be prohibited. A court may limit any such agreement found to be unreasonable in any respect.

House Bill 5750 would amend Section 4a of the act (MCL 445.774a) to create an exception for contracts or agreements between a broadcast industry employer and a broadcast employee or prospective employee. "Broadcast employee" would mean any employee of a broadcast industry employer except for those providing primarily sales or management functions. "Broadcast industry employer" would mean the owner or operator of one or more broadcast television or radio stations. Entities distributing programming to two or more cable systems, as defined under federal law (47 USC 522), would be excluded. The bill would take effect April 1, 2010, and would apply to contracts and agreements entered into after that date.

Under the bill, a broadcast employer could not require a broadcast employee (hereinafter "employee") or prospective broadcast employee to agree to, and could not include in an employment contract or agreement, any of the following:

- A restriction on the right of the employee to obtain employment in a specified geographic area for a specified time whether the employment was terminated by the employer, by mutual agreement, or by expiration of the employment contract.
- A requirement to disclose the existence of, or the terms or conditions of, any offer of employment the employee or prospective employee may receive from any other broadcast industry employer.

- A requirement to agree to enter into a subsequent employment contract with that employer or extend or renew the existing employment contract on the same terms and conditions offered to the employee by a prospective employer.

A contract term prohibited by the above would be void and unenforceable. A person who violated Section 4a would be liable for civil damages. The court would be required to award reasonable attorney fees and costs of litigation to the individual who prevailed in an action for a violation of the bill's provisions to prohibit non-compete clauses in a contract or agreement between a broadcast industry employee and his or her employee or prospective employee.

FISCAL IMPACT:

The bill would have no material fiscal impact on the state or local units of government.

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