

**COMMITTEE AMENDMENT**  
HOUSE OF REPRESENTATIVES  
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB1799 \_\_\_\_\_  
Of the printed Bill  
Page \_\_\_\_\_ Section \_\_\_\_\_ Lines \_\_\_\_\_  
Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by inserting in lieu thereof the following language:

**AMEND TITLE TO CONFORM TO AMENDMENTS**

Adopted: \_\_\_\_\_

Amendment submitted by: Chris Kannady \_\_\_\_\_

\_\_\_\_\_  
Reading Clerk

1 STATE OF OKLAHOMA

2 1st Session of the 59th Legislature (2023)

3 PROPOSED COMMITTEE  
4 SUBSTITUTE  
5 FOR  
6 HOUSE BILL NO. 1799

By: Osburn

7  
8 PROPOSED COMMITTEE SUBSTITUTE

9 An Act relating to contracts; enacting the Uniform  
10 Restrictive Employment Agreement Act; defining terms;  
11 providing for scope of enactment; providing for  
12 effect of enactment on common law; providing for  
13 effect of enactment with respect to other sources of  
14 law; prohibiting certain restrictive employment  
15 agreements; providing exceptions; providing for  
16 content of certain agreements; authorizing waiver by  
17 employees; restriction enforceability of restrictive  
18 employment agreements; prohibiting noncompete  
19 agreements; providing exceptions; prohibiting certain  
20 confidentiality agreements; prohibiting certain no-  
21 business agreements; providing exceptions;  
22 prohibiting certain nonsolicitation agreements;  
23 providing exceptions; prohibiting certain no-recruit  
24 agreements; providing exception; prohibiting payment-  
for-competition agreements; providing exceptions;  
prohibiting certain waivers; prohibiting training-  
repayment agreements; providing exceptions; providing  
for application of enactment to agreements based on  
effective date of enactment; providing for effect of  
invalidity with respect to provisions of enactment;  
repealing 15 O.S. 2021, Sections 217, 218, 219, 219A  
and 219B, which relate to restraints of trade and  
non-competition agreements; providing for  
codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

1 SECTION 1. NEW LAW A new section of law to be codified  
2 in the Oklahoma Statutes as Section 225.1 of Title 15, unless there  
3 is created a duplication in numbering, reads as follows:

4 This act shall be known and may be cited as the "Uniform  
5 Restrictive Employment Agreement Act".

6 SECTION 2. NEW LAW A new section of law to be codified in  
7 the Oklahoma Statutes as Section 225.2 of Title 15, unless there is  
8 created a duplication in numbering, reads as follows:

9 As used in this act:

10 1. "Electronic" means relating to technology having electrical,  
11 digital, magnetic, wireless, optical, electromagnetic, or similar  
12 capabilities;

13 2. "Employer" means a person that hires or contracts with a  
14 worker to work for the person;

15 3. "No-business agreement" means a restrictive employment  
16 agreement that prohibits a worker from working for a client or  
17 customer of the employer;

18 4. "Noncompete agreement" means a restrictive employment  
19 agreement that prohibits a worker from working other than for the  
20 employer after the work relationship ends. The term does not include  
21 a no-business agreement;

22 5. "Nonsolicitation agreement" means a restrictive employment  
23 agreement that prohibits a worker from directly or indirectly,  
24 actively or inactively, soliciting the sale of goods, services or a

1 combination of goods and services from a client or customer of the  
2 employer;

3 6. "No-recruit agreement" means a restrictive employment  
4 agreement that prohibits a worker from hiring or recruiting, directly  
5 or indirectly, actively or inactively, another worker of the employer;

6 7. "Payment-for-competition agreement" means a restrictive  
7 employment agreement that imposes an adverse financial consequence on  
8 a worker for working other than for the employer but does not  
9 expressly prohibit the work;

10 8. "Person" means an individual, estate, business or nonprofit  
11 entity, or other legal entity. The term does not include a public  
12 corporation or government or governmental subdivision, agency, or  
13 instrumentality;

14 9. "Record" means information:

- 15 a. inscribed on a tangible medium, or  
16 b. stored in an electronic or other medium and retrievable  
17 in perceivable form;

18 10. "Restrictive employment agreement" means an agreement or part  
19 of another agreement between an employer and worker that prohibits,  
20 limits, or sets a condition on working other than for the employer  
21 after the work relationship ends or a sale of a business is  
22 consummated. The term includes a no-business agreement, noncompete  
23 agreement, nonsolicitation agreement, no-recruit agreement, payment-  
24 for-competition agreement, and training-repayment agreement;

1 11. "Sale of a business" means sale, merger, consolidation,  
2 amalgamation, reorganization, or other transaction, however  
3 denominated of:

4 a. all or part of a business or nonprofit entity or  
5 association, or all or part of its assets, or

6 b. a substantial ownership interest in the business or  
7 nonprofit entity or association;

8 12. "Sign" means, with present intent to authenticate or adopt  
9 a record:

10 a. to execute or adopt a tangible symbol, or

11 b. to attach or logically associate with the record an  
12 electronic symbol, sound or process;

13 13. "Signed agreement" means a restrictive employment agreement  
14 signed by the worker and employer;

15 14. "Special training" means instruction or other education a  
16 worker receives from a source other than the employer that:

17 a. is designed to enhance the ability of the worker to  
18 perform his or her work,

19 b. is not normally received by other workers, and

20 c. requires a significant and identifiable expenditure by  
21 the employer distinct from ordinary on-the-job  
22 training;

23 15. "Regular rate of pay" has the same meaning as used in the  
24 Fair Labor Standards Act of 1938, 29 U.S.C. 201;

1 16. "Trade secret" has the same meaning as that term is defined  
2 in paragraph 4 of Section 86 of Title 78 of the Oklahoma Statutes;

3 17. "Training-repayment agreement" means a restrictive  
4 employment agreement that requires a worker to repay the employer for  
5 special training costs incurred by the employer;

6 18. "Work" means providing service; and

7 19. "Worker" means an individual who works for an employer.  
8 Worker includes an employee, extern, intern, volunteer, apprentice.  
9 Worker does not include an individual, even if the individual  
10 performs incidental service for the employer, whose sole  
11 relationship with the employer is:

- 12 a. as a member of a board of directors or other governing  
13 or advisory board,
- 14 b. an individual under whose authority the powers of a  
15 business or nonprofit entity or association are  
16 exercised,
- 17 c. an investor, or
- 18 d. a vendor of goods.

19 SECTION 3. NEW LAW A new section of law to be codified  
20 in the Oklahoma Statutes as Section 225.3 of Title 15, unless there  
21 is created a duplication in numbering, reads as follows:

22 A. This act applies to a restrictive employment agreement. If a  
23 restrictive employment agreement is part of another agreement, this  
24 act does not affect other parts of the other agreement.

1 B. This act supersedes common law only to the extent that it  
2 applies to a restrictive employment agreement but otherwise does not  
3 affect principles of law and equity consistent with this act.

4 C. This act does not affect agreements to take an action solely  
5 to transfer, perfect, or enforce a patent, copyright, trade secret,  
6 or similar right.

7 D. This act does not affect a noncompetition obligation arising  
8 solely as a result of an existing ownership interest in a business  
9 entity.

10 E. This act does not affect an agreement that requires a worker  
11 to forfeit compensation after the work relationship ends, including  
12 vacation or retirement benefits, the right to which accrued before  
13 the work relationship ended.

14 SECTION 4. NEW LAW A new section of law to be codified in  
15 the Oklahoma Statutes as Section 225.4 of Title 15, unless there is  
16 created a duplication in numbering, reads as follows:

17 A. Except as provided in subsection E of this section, a  
18 restrictive employment agreement is prohibited and unenforceable  
19 unless:

20 1. The employer provides a copy of the proposed agreement in a  
21 record to a prospective worker, at least fourteen (14) days before  
22 the prospective worker commences work;

23 2. The proposed agreement and the signed agreement clearly  
24 specify the information, type of work activity, or extent of

1 competition that the agreement prohibits, limits, or sets conditions  
2 on after the work relationship ends; and

3 3. Subject to subsection D of this section, the employer  
4 provides an additional copy of the agreement to the worker, not more  
5 than fourteen (14) days after the worker, in a record, requests a  
6 copy, unless the employer reasonably and in good faith is unable to  
7 provide the copy not later than fourteen (14) days after the request  
8 and the worker is not prejudiced by the delay.

9 B. A worker may waive the fourteen-day requirement of paragraph  
10 3 of subsection A of this section.

11 C. The fourteen-day requirement of paragraph 3 of subsection A  
12 of this section shall not apply when a worker commences work within  
13 fourteen (14) days of an offer of employment.

14 D. An employer is not required under paragraph 3 of subsection A  
15 of this section to provide an additional copy of the agreement more  
16 than once during a calendar year.

17 SECTION 5. NEW LAW A new section of law to be codified in  
18 the Oklahoma Statutes as Section 222.5 of Title 15, unless there is  
19 created a duplication in numbering, reads as follows:

20 A restrictive employment agreement, other than a training-  
21 repayment agreement, is:

22 1. Prohibited and unenforceable if, when the worker signs the  
23 agreement, the worker has a regular rate of pay less than the annual  
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1 mean wage of employees in this state as determined by the United  
2 States Department of Labor; and

3 2. Unenforceable if, at any time during the work relationship,  
4 the regular rate of pay, calculated on an annualized basis, is less  
5 than the annual mean wage of employees in this state as determined by  
6 the United States Department of Labor.

7 SECTION 6. NEW LAW A new section of law to be codified  
8 in the Oklahoma Statutes as Section 225.8 of Title 15, unless there  
9 is created a duplication in numbering, reads as follows:

10 A noncompete agreement is prohibited and unenforceable unless:

11 1. The agreement protects any of the following legitimate  
12 business interests:

- 13 a. the sale of a business which the worker is a  
14 substantial owner and consents to the sale,
- 15 b. the creation of a business in which the worker is a  
16 substantial owner,
- 17 c. a trade secret, or
- 18 d. an ongoing client or customer relationship of the  
19 employer;

20 2. When the worker signs the agreement and through the time of  
21 enforcement, the agreement is narrowly tailored in duration and  
22 scope of actual competition to protect an interest under paragraph 1  
23 of this section, and the interest cannot be protected adequately by  
24 another restrictive employment agreement; and

1           3. The prohibition on competition lasts not longer than five (5)  
2 years after the work relationship ends.

3           SECTION 7.           NEW LAW           A new section of law to be codified  
4 in the Oklahoma Statutes as Section 225.10 of Title 15, unless there  
5 is created a duplication in numbering, reads as follows:

6           A no-business agreement is prohibited and unenforceable unless  
7 the agreement:

8           1. Applies only to a prospective or ongoing client or customer  
9 of the employer with which the worker had worked personally; and

10           2. Lasts not longer than one year after the work relationship  
11 between the employer and worker ends.

12           SECTION 8.           NEW LAW           A new section of law to be codified in  
13 the Oklahoma Statutes as Section 225.11 of Title 15, unless there is  
14 created a duplication in numbering, reads as follows:

15           A nonsolicitation agreement is prohibited and unenforceable  
16 unless the agreement:

17           1. Applies only to a prospective or ongoing client or customer  
18 of the employer with which the worker had worked personally; and

19           2. Lasts not longer than one (1) year after the work  
20 relationship between the employer and worker ends.

21           SECTION 9.           NEW LAW           A new section of law to be codified in  
22 the Oklahoma Statutes as Section 225.12 of Title 15, unless there is  
23 created a duplication in numbering, reads as follows:

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1 A no-recruit agreement is prohibited and unenforceable unless the  
2 agreement prohibits hiring or recruiting only:

- 3 1. Another worker currently working for the employer; and
- 4 2. Lasts not longer than two (2) years after the work  
5 relationship between the employer and worker ends.

6 SECTION 10. NEW LAW A new section of law to be codified  
7 in the Oklahoma Statutes as Section 225.13 of Title 15, unless there  
8 is created a duplication in numbering, reads as follows:

9 A payment-for-competition agreement is prohibited and  
10 unenforceable unless the agreement:

- 11 1. Imposes a financial consequence that is not greater than the  
12 actual competitive harm to the employer; and
- 13 2. Lasts not longer than one (1) year after the work  
14 relationship between the employer and worker ends.

15 SECTION 11. NEW LAW A new section of law to be codified  
16 in the Oklahoma Statutes as Section 225.14 of Title 15, unless there  
17 is created a duplication in numbering, reads as follows:

18 A training-repayment agreement is prohibited and unenforceable  
19 unless the agreement:

- 20 1. Requires repayment only of the cost of special training;
- 21 2. Lasts not longer than two (2) years after the special  
22 training is completed; and
- 23 3. Prorates the repayment for work done during the post-training  
24 period.

1 SECTION 12. NEW LAW A new section of law to be codified  
2 in the Oklahoma Statutes as Section 225.15 of Title 15, unless there  
3 is created a duplication in numbering, reads as follows:

4 Except as provided in subsection B of Section 4 of this act or  
5 in the context of resolving an issue in litigation or other dispute  
6 resolution, a party to a restrictive employment agreement may not  
7 waive a requirement of this act or stipulate to a fact to avoid a  
8 requirement of this act.

9 SECTION 13. NEW LAW A new section of law to be codified  
10 in the Oklahoma Statutes as Section 225.16 of Title 15, unless there  
11 is created a duplication in numbering, reads as follows:

12 A. A worker who is a party to a restrictive employment agreement  
13 or a subsequent employer that has hired or is considering hiring the  
14 worker may seek a declaratory judgment that the agreement is  
15 unenforceable.

16 B. In addition to other judicial remedies, a court may award  
17 damages and in a private action, reasonable attorney fees to a party  
18 that successfully challenges or defends against enforceability of a  
19 restrictive employment agreement or proves a violation of this act.

20 SECTION 14. NEW LAW A new section of law to be codified  
21 in the Oklahoma Statutes as Section 225.19 of Title 15, unless there  
22 is created a duplication in numbering, reads as follows:

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1        Except as provided in Section 15 of this act, this act does not  
2 affect the validity of a restrictive employment agreement in effect  
3 before the effective date of this act.

4        SECTION 15.        NEW LAW        A new section of law to be codified  
5 in the Oklahoma Statutes as Section 225.20 of Title 15, unless there  
6 is created a duplication in numbering, reads as follows:

7        Paragraph 4 of subsection A of Section 4 of this act and Section  
8 5 of this act apply to a restrictive employment agreement entered  
9 into before, on, or after effective date of this act.

10       SECTION 16.       REPEALER       15 O.S. 2021, Sections 217, 218,  
11 219, 219A, and 219B, are hereby repealed.

12       SECTION 17.       This act shall become effective November 1, 2023.

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14       59-1-7652       MAH       03/01/23

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