

# SENATE AMENDMENT NO. \_\_\_\_\_

Offered by \_\_\_\_\_ of \_\_\_\_\_

Amend SS/HCS/House Bill No. 2587, Page 44, Section 407.475, Line 18,

2 by inserting after all of said line the following:

3       "431.204. 1. A reasonable covenant in writing  
 4 promising not to solicit, recruit, hire, induce, persuade,  
 5 encourage, or otherwise interfere with, directly or  
 6 indirectly, the employment of one or more employees or  
 7 owners of a business entity shall be presumed to be  
 8 enforceable and not a restraint of trade pursuant to  
 9 subsection 1 of section 416.031 if it is between a business  
 10 entity and the owner of the business entity and does not  
 11 continue for more than two years following the end of the  
 12 owner's business relationship with the business entity.

13       2. A reasonable covenant in writing promising not to  
 14 solicit, induce, direct, or otherwise interfere with,  
 15 directly or indirectly, a business entity's customers,  
 16 including any reduction, termination, or transfer of any  
 17 customer's business, in whole or in part, for the purposes  
 18 of providing any product or any service that is competitive  
 19 with those provided by the business entity, shall be  
 20 presumed to be enforceable and not a restraint of trade  
 21 pursuant to subsection 1 of section 416.031 if the covenant  
 22 is limited to customers with whom the owner dealt and if the  
 23 covenant is between a business entity and an owner, so long  
 24 as the covenant does not continue for more than five years  
 25 following the end of the owner's business relationship with  
 26 the business entity.

27           3. A provision in writing by which an owner promises  
28 to provide prior notice of the owner's intent to terminate,  
29 sell, or otherwise dispose of such owner's ownership  
30 interest in the business entity shall be presumed to be  
31 enforceable and not a restraint of trade pursuant to  
32 subsection 1 of section 416.031.

33           4. If a covenant is overbroad, overlong, or otherwise  
34 not reasonably necessary to protect the protectable business  
35 interests of the business entity seeking enforcement of the  
36 covenant, a court shall modify the covenant, enforce the  
37 covenant as modified, and grant only the relief reasonably  
38 necessary to protect such interests.

39           5. Nothing in this section is intended to create or to  
40 affect the validity or enforceability of covenants not to  
41 compete, other types of covenants, or nondisclosure or  
42 confidentiality agreements, except as expressly provided in  
43 this section.

44           6. Except as provided in subsection 3 of this section,  
45 nothing in this section shall be construed to limit an  
46 owner's ability to seek or accept employment with another  
47 business entity immediately upon, or at any time subsequent  
48 to, termination of the owner's business relationship with  
49 the business entity, whether such termination was voluntary  
50 or nonvoluntary."; and

51           Further amend the title and enacting clause accordingly.