

SENATE AMENDMENT NO. _____

Offered by _____ of _____

Amend SS/Senate Bill No. 400, Page 1, Section A, Line 3,

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 presumed
20 to be enforceable and not a restraint of trade pursuant to
21 subsection 1 of section 416.031 if the covenant is limited
22 to customers with whom the owner dealt and if the covenant
23 is between a business entity and an owner, so long as the
24 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.