

FIRST REGULAR SESSION

# SENATE BILL NO. 367

102ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR LUETKEMEYER.

1522S.01H

KRISTINA MARTIN, Secretary

## AN ACT

To amend chapter 431, RSMo, by adding thereto one new section relating to business covenants.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Chapter 431, RSMo, is amended by adding thereto  
2 one new section, to be known as section 431.204, to read as  
3 follows:

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

11 2. A reasonable covenant in writing promising not to  
12 solicit, induce, direct, or otherwise interfere with,  
13 directly or indirectly, a business entity's customers,  
14 including any reduction, termination, or transfer of any  
15 customer's business, in whole or in part, for the purposes  
16 of providing any product or any service that is competitive  
17 with those provided by the business entity shall be presumed  
18 to be enforceable and not a restraint of trade pursuant to  
19 subsection 1 of section 416.031 if the covenant is limited

20 to customers with whom the owner dealt and if the covenant  
21 is between a business entity and an owner, so long as the  
22 covenant does not continue for more than five years  
23 following the end of the owner's business relationship with  
24 the business entity.

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

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

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

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

✓