

By: Harris

H.B. No. 119

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the enforceability of a covenant not to compete with
3 respect to certain employees discharged from employment for refusal
4 or failure to receive a COVID-19 vaccination.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Section 15.50, Business & Commerce Code, is
7 amended by amending Subsection (a) and adding Subsection (d) to
8 read as follows:

9 (a) Notwithstanding Section 15.05 of this code, and subject
10 to any applicable provision of Subsection (b) or (d), a covenant not
11 to compete is enforceable if it is ancillary to or part of an
12 otherwise enforceable agreement at the time the agreement is made
13 to the extent that it contains limitations as to time, geographical
14 area, and scope of activity to be restrained that are reasonable and
15 do not impose a greater restraint than is necessary to protect the
16 goodwill or other business interest of the promisee.

17 (d) A covenant not to compete between an employee and an
18 employer is not enforceable against an employee who is discharged
19 from employment with the employer solely because the employee
20 refused or failed to receive a COVID-19 vaccination required by the
21 employer. For purposes of this subsection:

22 (1) "COVID-19" means the 2019 novel coronavirus
23 disease.

24 (2) "Employee" means an individual who is employed by

1 an employer for compensation.

2 (3) "Employer" means a person who employs one or more
3 employees.

4 SECTION 2. The change in law made by this Act applies only
5 to a covenant not to compete that is ancillary to or part of an
6 agreement entered into on or after the effective date of this Act.
7 A covenant not to compete that is ancillary to or part of an
8 agreement entered into before the effective date of this Act is
9 governed by the law in effect at the time the agreement was entered
10 into, and that law is continued in effect for that purpose.

11 SECTION 3. This Act takes effect on the 91st day after the
12 last day of the legislative session.