

By: Canales

H.B. No. 1327

A BILL TO BE ENTITLED

AN ACT

relating to the enforceability of covenants not to compete against certain discharged employees.

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

SECTION 1. The heading to Section 15.50, Business & Commerce Code, is amended to read as follows:

Sec. 15.50. [~~CRITERIA FOR~~] ENFORCEABILITY OF COVENANTS NOT TO COMPETE.

SECTION 2. Section 15.50, Business & Commerce Code, is amended by amending Subsection (a) and adding Subsection (a-1) to read as follows:

(a) Notwithstanding Section 15.05 of this code, except as provided by Subsection (a-1), and subject to any applicable provision of Subsection (b), a covenant not to compete is enforceable if it is ancillary to or part of an otherwise enforceable agreement at the time the agreement is made to the extent that it contains limitations as to time, geographical area, and scope of activity to be restrained that are reasonable and do not impose a greater restraint than is necessary to protect the goodwill or other business interest of the promisee.

(a-1) Notwithstanding any other law, a covenant not to compete is void and unenforceable if the promisor of the covenant is an employee discharged without good cause. For purposes of this subsection, "good cause" means a reasonable basis for discharge of

1 an individual employee from employment that is directly related to
2 the employee's conduct, including the employee's conduct on the job
3 or otherwise, job performance, and employment record.

4 SECTION 3. Section 15.52, Business & Commerce Code, is
5 amended to read as follows:

6 Sec. 15.52. PREEMPTION OF OTHER LAW. The [~~criteria for~~]
7 enforceability of a covenant not to compete provided by Section
8 15.50 [~~of this code~~] and the procedures and remedies in an action to
9 enforce a covenant not to compete provided by Section 15.51 [~~of this~~
10 ~~code~~] are exclusive and preempt [~~any~~] other law, including
11 [~~criteria for enforceability of a covenant not to compete or~~
12 ~~procedures and remedies in an action to enforce a covenant not to~~
13 ~~compete under~~] common law [~~or otherwise~~].

14 SECTION 4. The change in law made by this Act applies only
15 to a covenant not to compete agreed to or renewed on or after the
16 effective date of this Act. A covenant not to compete agreed to or
17 renewed before that date is governed by the law in effect
18 immediately before the effective date of this Act, and that law is
19 continued in effect for that purpose.

20 SECTION 5. This Act takes effect September 1, 2021.