

HOUSE BILL 234

Unofficial Copy  
K3  
HB 189/03 - ECM

2004 Regular Session  
4lr1334  
CF 4lr1346

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By: **Delegates McHale, Anderson, Barkley, Barve, Boschert, Branch, Conroy, Cryor, C. Davis, DeBoy, Doory, Feldman, Franchot, Frush, Fulton, Gutierrez, Hammen, Harrison, Healey, Hixson, Howard, Hubbard, Impallaria, Jones, Kach, King, Kirk, Krysiak, Love, Madaleno, Mandel, Marriott, McDonough, McIntosh, Menes, Minnick, Moe, Niemann, Pendergrass, Sophocleus, Stern, Taylor, F. Turner, and Vaughn**

Introduced and read first time: January 23, 2004  
Assigned to: Economic Matters

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A BILL ENTITLED

1 AN ACT concerning

2 **Employment Contracts - Broadcast Industry - Noncompete Provisions**

3 FOR the purpose of providing that broadcast industry employment contracts may not  
4 include noncompete provisions that prohibit the right of a broadcast industry  
5 employee to seek or obtain certain employment after termination of the  
6 employment contract or employment relationship; providing that a noncompete  
7 provision is void and unenforceable; authorizing an employee who is the subject  
8 of a noncompete provision to seek certain damages, attorneys' fees, and costs in  
9 a civil action; providing for the application of this Act; and generally relating to  
10 a prohibition against the inclusion of noncompete provisions in broadcast  
11 industry employment contracts.

12 BY adding to  
13 Article - Labor and Employment  
14 Section 3-708  
15 Annotated Code of Maryland  
16 (1999 Replacement Volume and 2003 Supplement)

17 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
18 MARYLAND, That the Laws of Maryland read as follows:

19 **Article - Labor and Employment**

20 3-708.

21 (A) IN THIS SECTION, "BROADCAST INDUSTRY EMPLOYMENT CONTRACT"  
22 MEANS A CONTRACT OR AGREEMENT THAT ESTABLISHES THE TERMS AND  
23 CONDITIONS OF EMPLOYMENT BETWEEN A PROSPECTIVE OR CURRENT EMPLOYEE  
24 AND AN EMPLOYER THAT IS AN ENTITY IN THE BROADCASTING INDUSTRY,  
25 INCLUDING:

- 1 (1) A TELEVISION STATION;
- 2 (2) A TELEVISION NETWORK;
- 3 (3) A RADIO STATION;
- 4 (4) A RADIO NETWORK;
- 5 (5) A SATELLITE-BASED SERVICE SIMILAR TO A BROADCAST STATION  
6 OR NETWORK;
- 7 (6) AN ENTITY AFFILIATED WITH ONE OF THE ENTITIES LISTED IN  
8 ITEMS (1) THROUGH (5) OF THIS SUBSECTION; OR
- 9 (7) ANY OTHER ENTITY THAT PROVIDES BROADCASTING SERVICES  
10 SUCH AS NEWS, WEATHER, TRAFFIC, SPORTS, OR ENTERTAINMENT PROGRAMMING.

11 (B) (1) THIS SUBSECTION APPLIES TO A BROADCAST INDUSTRY  
12 EMPLOYMENT CONTRACT:

- 13 (I) THAT IS EXECUTED IN THE STATE;
- 14 (II) TO WHICH AN EMPLOYEE IN THE STATE IS A PARTY; OR
- 15 (III) TO WHICH AN EMPLOYER DOING BUSINESS IN THE STATE IS A  
16 PARTY.

17 (2) A BROADCAST INDUSTRY EMPLOYMENT CONTRACT MAY NOT  
18 CONTAIN A NONCOMPETE PROVISION THAT RESTRICTS THE RIGHT OF THE  
19 EMPLOYEE TO SEEK OR OBTAIN EMPLOYMENT WITH ANOTHER EMPLOYER  
20 DESCRIBED IN SUBSECTION (A) OF THIS SECTION AFTER EXPIRATION OR  
21 TERMINATION OF THE EMPLOYMENT CONTRACT OR EMPLOYMENT RELATIONSHIP.

22 (C) A NONCOMPETE PROVISION PROHIBITED UNDER SUBSECTION (B) OF THIS  
23 SECTION IS VOID AND UNENFORCEABLE.

24 (D) AN EMPLOYER THAT INCLUDES A NONCOMPETE PROVISION PROHIBITED  
25 UNDER SUBSECTION (B) OF THIS SECTION IN A BROADCAST INDUSTRY EMPLOYMENT  
26 CONTRACT MAY BE HELD LIABLE IN A CIVIL ACTION BY THE EMPLOYEE WHO IS THE  
27 SUBJECT OF THE CLAUSE IN A COURT OF COMPETENT JURISDICTION FOR:

- 28 (1) DAMAGES THAT THE EMPLOYEE SUSTAINS AS A RESULT OF THE  
29 ATTEMPTED ENFORCEMENT BY THE EMPLOYER OF THE PROHIBITED CLAUSE; AND
- 30 (2) REASONABLE ATTORNEYS' FEES AND COSTS ASSOCIATED WITH ANY  
31 LITIGATION BY OR AGAINST THE EMPLOYEE THAT RELATES TO THE NONCOMPETE  
32 CLAUSE.

33 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply to  
34 any broadcast industry employment contract executed, extended, or renewed on or  
35 after the effective date of this Act.

1 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take  
2 effect October 1, 2004.