

SENATE BILL 459

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2004 Regular Session
4r1346
CF 4r1334

By: **Senators Kelley, Brochin, Conway, DeGrange, Della, Dyson, Exum,
Forehand, Giannetti, Gladden, Grosfeld, Hughes, Jimeno, Jones,
Kasemeyer, Lawlah, McFadden, Pinsky, Ruben, Stone, and Teitelbaum**

Introduced and read first time: February 5, 2004

Assigned to: Finance

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:

26 (1) A TELEVISION STATION;

1 (2) A TELEVISION NETWORK;

2 (3) A RADIO STATION;

3 (4) A RADIO NETWORK;

4 (5) A SATELLITE-BASED SERVICE SIMILAR TO A BROADCAST STATION
5 OR NETWORK;

6 (6) AN ENTITY AFFILIATED WITH ONE OF THE ENTITIES LISTED IN
7 ITEMS (1) THROUGH (5) OF THIS SUBSECTION; OR

8 (7) ANY OTHER ENTITY THAT PROVIDES BROADCASTING SERVICES
9 SUCH AS NEWS, WEATHER, TRAFFIC, SPORTS, OR ENTERTAINMENT PROGRAMMING.

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

12 (I) THAT IS EXECUTED IN THE STATE;

13 (II) TO WHICH AN EMPLOYEE IN THE STATE IS A PARTY; OR

14 (III) TO WHICH AN EMPLOYER DOING BUSINESS IN THE STATE IS A
15 PARTY.

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

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

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

27 (1) DAMAGES THAT THE EMPLOYEE SUSTAINS AS A RESULT OF THE
28 ATTEMPTED ENFORCEMENT BY THE EMPLOYER OF THE PROHIBITED CLAUSE; AND

29 (2) REASONABLE ATTORNEYS' FEES AND COSTS ASSOCIATED WITH ANY
30 LITIGATION BY OR AGAINST THE EMPLOYEE THAT RELATES TO THE NONCOMPETE
31 CLAUSE.

32 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply to
33 any broadcast industry employment contract executed, extended, or renewed on or
34 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.