
By: **Senator Astle**

Introduced and read first time: February 16, 2005

Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 **Labor and Employment - Broadcast Industry Employment Contracts**

3 FOR the purpose of providing that broadcast industry employment contracts may
4 include certain covenant not to compete provisions under certain circumstances;
5 prohibiting certain provisions in certain broadcast industry employment
6 contracts; defining certain terms; providing for the application of this Act; and
7 generally relating to broadcast industry employment contracts.

8 BY adding to
9 Article - Labor and Employment
10 Section 3-709
11 Annotated Code of Maryland
12 (1999 Replacement Volume and 2004 Supplement)

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

15 **Article - Labor and Employment**

16 3-709.

17 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
18 INDICATED.

19 (2) "BROADCAST INDUSTRY EMPLOYER" MEANS A LICENSEE OF THE
20 FEDERAL COMMUNICATIONS COMMISSION THAT PROVIDES BROADCASTING
21 SERVICES INCLUDING NEWS, WEATHER, TRAFFIC, SPORTS, OR ENTERTAINMENT
22 PROGRAMMING.

23 (3) "BROADCAST INDUSTRY EMPLOYMENT CONTRACT" MEANS A
24 CONTRACT OR AGREEMENT THAT ESTABLISHES THE TERMS AND CONDITIONS OF
25 EMPLOYMENT BETWEEN A PROSPECTIVE OR CURRENT EMPLOYEE AND A
26 BROADCAST INDUSTRY EMPLOYER.

27 (4) "DESIGNATED MARKET AREA" MEANS A DESIGNATED MARKET AREA
28 AS DETERMINED:

1 (I) FOR TELEVISION, BY NIELSEN MEDIA RESEARCH; AND

2 (II) FOR RADIO, BY ARBITRON INC.

3 (5) "COVENANT NOT TO COMPETE PROVISION" MEANS A PROVISION IN A
4 BROADCAST INDUSTRY EMPLOYMENT CONTRACT THAT PROHIBITS OR RESTRICTS AN
5 EMPLOYEE OF A BROADCAST INDUSTRY EMPLOYER FROM BEING EMPLOYED BY
6 ANOTHER BROADCAST INDUSTRY EMPLOYER IN A CERTAIN GEOGRAPHIC AREA FOR
7 A SPECIFIED PERIOD OF TIME AFTER TERMINATION OF EMPLOYMENT.

8 (B) THIS SECTION APPLIES TO A BROADCAST INDUSTRY EMPLOYMENT
9 CONTRACT FOR EMPLOYMENT IN ANNE ARUNDEL COUNTY, BALTIMORE COUNTY,
10 HOWARD COUNTY, MONTGOMERY COUNTY, PRINCE GEORGE'S COUNTY, AND
11 BALTIMORE CITY IN WHICH COMPENSATION TO THE EMPLOYEE IS LESS THAN
12 \$45,000 A YEAR, ADJUSTED ANNUALLY IN ACCORDANCE WITH THE CONSUMER PRICE
13 INDEX.

14 (C) SUBJECT TO SUBSECTION (D) OF THIS SECTION, A BROADCAST INDUSTRY
15 EMPLOYMENT CONTRACT MAY INCLUDE A COVENANT NOT TO COMPETE PROVISION.

16 (D) (1) IN THIS SUBSECTION, "TERMINATED WITHOUT CAUSE" INCLUDES
17 THE OFFER OF RENEWAL OF A BROADCAST INDUSTRY EMPLOYMENT CONTRACT
18 MADE BY A BROADCAST INDUSTRY EMPLOYER TO A CURRENT EMPLOYEE FOR
19 COMPENSATION THAT IS LOWER THAN THAT IN THE EMPLOYEE'S MOST RECENT
20 CONTRACT.

21 (2) A COVENANT NOT TO COMPETE PROVISION IN A BROADCAST
22 INDUSTRY EMPLOYMENT CONTRACT:

23 (I) MAY NOT EXCEED 12 MONTHS;

24 (II) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION,
25 MAY NOT LIMIT EMPLOYMENT WITH ANOTHER EMPLOYER BEYOND THE BROADCAST
26 INDUSTRY EMPLOYER'S DESIGNATED MARKET AREA; OR

27 (III) MAY NOT LIMIT EMPLOYMENT IF THE EMPLOYEE IS
28 TERMINATED WITHOUT CAUSE BY THE BROADCAST INDUSTRY EMPLOYER.

29 (3) A COVENANT NOT TO COMPETE PROVISION IN A BROADCAST
30 INDUSTRY EMPLOYMENT CONTRACT FOR EMPLOYMENT IN FREDERICK OR
31 HAGERSTOWN MAY NOT APPLY TO EMPLOYMENT IN WASHINGTON, D.C.

32 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
33 construed prospectively to apply only to broadcast industry employment contracts
34 executed, extended, or renewed on or after the effective date of this Act. This Act shall
35 not apply to a broadcast industry employment contract executed before the effective
36 date of this Act unless the contract is extended or renewed on or after the effective
37 date of this Act.

1 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 2005.