

HOUSE BILL NO. 1267

Introduced by

Representative Keiser

1 A BILL for an Act to amend and reenact section 9-08-06 of the North Dakota Century Code,
2 relating to contract provisions restraining business.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1. AMENDMENT.** Section 9-08-06 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **9-08-06. In restraint of business void - Exceptions - Remedies.**

- 7 1. Every contract entered after July 31, 1999, by which ~~anyone~~ any person is
8 restrained from exercising a any lawful profession, trade, or business ~~of any kind~~ is
9 to that extent void, except the following written contracts:
- 10 4. a. ~~One~~ A party who sells the goodwill of a business may agree with the ~~buyer~~
11 purchaser to refrain from carrying on a similar business within a specified
12 county, city, or a part of either geographical area not exceeding fifty miles
13 [80.47 kilometers] in radius, so long as the ~~buyer~~ purchaser or any person
14 deriving title to the goodwill ~~from him~~ carries on a like business ~~therein~~ in that
15 county, city, or area.
- 16 b. A party who sells or redeems shares of stock in a business may agree with
17 the purchaser to refrain from carrying on a similar business within a specified
18 county, city, or geographical area not exceeding fifty miles [80.47 kilometers]
19 in radius so long as the purchaser of the shares of stock or an entity owned by
20 the purchaser of the shares of stock carries on a business of the corporation
21 in which the stock was sold.
- 22 2. c. Partners, upon or in anticipation of a dissolution of the partnership, may agree
23 that all or any number of ~~them~~ the partners will not carry on a similar business
24 within the same county, city, or geographical area not exceeding fifty miles

- 1 [80.47 kilometers] in radius where the partnership business ~~has been~~ was
2 transacted, or within a specified part thereof.
- 3 d. A partner who sells or redeems a partnership interest in a business may
4 agree with the purchaser to refrain from carrying on a similar business within
5 a specified county, city, or geographical area not exceeding fifty miles
6 [80.47 kilometers] in radius so long as the purchaser or an entity owned by
7 the purchaser carries on a like business of the partnership.
- 8 e. Members of a limited liability company, upon or in anticipation of a dissolution
9 of the limited liability company, may agree that all or any number of the
10 members will not carry on a similar business within the same county, city, or
11 geographical area not exceeding fifty miles [80.47 kilometers] in radius where
12 the limited liability company business was transacted.
- 13 f. A member who sells or redeems a limited liability company interest in a
14 business may agree with the purchaser to refrain from carrying on a similar
15 business within the same county, city, or geographical area not exceeding fifty
16 miles [80.47 kilometers] in radius so long as the purchaser or an entity owned
17 by the purchaser carries on a like business of the limited liability company.
- 18 g. An employee may agree with an employer at the time of initial employment or
19 at any time during employment to refrain from soliciting, attempting to solicit,
20 and rendering services or selling products to or for any person who was a
21 client or customer of the employer, so long as the employer continues to
22 provide these services or products, if the agreement applies to:
- 23 (1) Clients or customers of the employer during the one-year period
24 immediately before the termination of employment;
- 25 (2) Services or products similar to the services or products the employer
26 provides or sells; and
- 27 (3) A period not exceeding two years from the date of termination of
28 employment.
- 29 2. For breach of an agreement allowed under this section, a court may award
30 damages, including liquidated damages or injunctive relief, or both.