

# SENATE BILL No. 1068

January 20, 2010, Introduced by Senators BASHAM and HUNTER and referred to the Committee on Commerce and Tourism.

A bill to amend 1984 PA 274, entitled "Michigan antitrust reform act," by amending section 4a (MCL 445.774a), as added by 1987 PA 243.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 4a. (1) ~~An~~ **EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION,**  
2 **AN** employer may obtain from an employee an agreement or covenant  
3 ~~which~~ **THAT** protects an employer's reasonable competitive business  
4 interests and expressly prohibits an employee from engaging in  
5 employment or a line of business after termination of employment if  
6 the agreement or covenant is reasonable as to its duration,  
7 geographical area, and the type of employment or line of business.  
8 To the extent any such agreement or covenant is found to be  
9 unreasonable in any respect, a court may limit the agreement to

1 render it reasonable in light of the circumstances in which it was  
2 made and specifically enforce the agreement as limited.

3 (2) A BROADCAST INDUSTRY EMPLOYER SHALL NOT REQUIRE A  
4 BROADCAST EMPLOYEE OR PROSPECTIVE BROADCAST EMPLOYEE TO AGREE TO  
5 AND SHALL NOT INCLUDE IN AN EMPLOYMENT CONTRACT OR AGREEMENT ANY OF  
6 THE FOLLOWING:

7 (A) A RESTRICTION ON THE RIGHT OF THE BROADCAST EMPLOYEE TO  
8 OBTAIN EMPLOYMENT IN A SPECIFIED GEOGRAPHIC AREA FOR A SPECIFIED  
9 TIME AFTER TERMINATION OF EMPLOYMENT BY THE EMPLOYER, BY MUTUAL  
10 AGREEMENT, OR BY EXPIRATION OF THE EMPLOYMENT CONTRACT.

11 (B) A REQUIREMENT TO DISCLOSE THE EXISTENCE OF, OR THE TERMS  
12 OR CONDITIONS OF, ANY OFFER OF EMPLOYMENT THE BROADCAST EMPLOYEE OR  
13 PROSPECTIVE EMPLOYEE MAY RECEIVE FROM ANY OTHER BROADCAST INDUSTRY  
14 EMPLOYER.

15 (C) A REQUIREMENT TO AGREE TO ENTER INTO A SUBSEQUENT  
16 EMPLOYMENT CONTRACT WITH THE BROADCAST INDUSTRY EMPLOYER OR TO  
17 EXTEND OR RENEW THE EXISTING EMPLOYMENT CONTRACT ON THE SAME TERMS  
18 AND CONDITIONS OFFERED TO THE BROADCAST EMPLOYEE BY A PROSPECTIVE  
19 EMPLOYER.

20 (3) A CONTRACT TERM PROHIBITED BY SUBSECTION (2) IS VOID AND  
21 UNENFORCEABLE. A PERSON WHO VIOLATES THIS SECTION IS LIABLE FOR  
22 CIVIL DAMAGES, AND, IN ADDITION, THE COURT SHALL AWARD AN  
23 INDIVIDUAL WHO PREVAILS IN AN ACTION FOR A VIOLATION OF SUBSECTION  
24 (2) REASONABLE ATTORNEY FEES AND COSTS OF LITIGATION.

25 (4) AS USED IN THIS SECTION:

26 (A) "BROADCAST EMPLOYEE" MEANS ANY EMPLOYEE OF A BROADCAST  
27 INDUSTRY EMPLOYER EXCEPT AN EMPLOYEE PROVIDING PRIMARILY SALES OR

1 MANAGEMENT FUNCTIONS.

2 (B) "BROADCAST INDUSTRY EMPLOYER" MEANS THE OWNER OR OPERATOR  
3 OF 1 OR MORE BROADCAST TELEVISION OR RADIO STATIONS, EXCLUDING AN  
4 ENTITY THAT DISTRIBUTES PROGRAMMING TO 2 OR MORE CABLE SYSTEMS, AS  
5 DEFINED IN 47 USC 522.

6 (5) ~~(2) This section shall apply~~ SUBSECTION (1) APPLIES to  
7 covenants and agreements ~~which~~ THAT are entered into after March  
8 29, 1985. SUBSECTIONS (2) AND (3) APPLY TO CONTRACTS AND AGREEMENTS  
9 THAT ARE ENTERED INTO AFTER APRIL 1, 2010.

10 Enacting section 1. This amendatory act takes effect April 1,  
11 2010.