



Rep. Anna Moeller

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10400HB3213ham001

LRB104 08712 SPS 24953 a

1 AMENDMENT TO HOUSE BILL 3213

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 3213 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Freedom to Work Act is amended by  
5 changing Sections 5, 10, and 15 as follows:

6 (820 ILCS 90/5)

7 Sec. 5. Definitions. In this Act:

8 "Adequate consideration" means (1) the employee worked for  
9 the employer for at least 2 years after the employee signed an  
10 agreement containing a covenant not to compete or a covenant  
11 not to solicit or (2) the employer otherwise provided  
12 consideration adequate to support an agreement to not compete  
13 or to not solicit, which consideration can consist of a period  
14 of employment plus additional professional or financial  
15 benefits or merely professional or financial benefits adequate  
16 by themselves.

1 "Covenant not to compete" means an agreement between an  
2 employer and an employee that is entered into after the  
3 effective date of this amendatory Act of the 102nd General  
4 Assembly that restricts the employee from performing the  
5 following work post-employment:

6 (1) any work for another employer for a specified  
7 period of time;

8 (2) any work in a specified geographical area; or

9 (3) work for another employer that is similar to  
10 employee's work for the employer included as a party  
11 to the agreement.

12 "Covenant not to compete" also means an agreement between  
13 an employer and an employee, entered into after the effective  
14 date of this amendatory Act of the 102nd General Assembly,  
15 that by its terms imposes adverse financial consequences on  
16 the former employee if the employee engages in competitive  
17 activities after the termination of the employee's employment  
18 with the employer.

19 "Covenant not to compete" does not include (1) a covenant  
20 not to solicit, (2) a confidentiality agreement or covenant,  
21 (3) a covenant or agreement prohibiting use or disclosure of  
22 trade secrets or inventions, (4) invention assignment  
23 agreements or covenants, (5) a covenant or agreement entered  
24 into by a person purchasing or selling the goodwill of a  
25 business or otherwise acquiring or disposing of an ownership  
26 interest, (6) clauses or an agreement between an employer and

1 an employee requiring advance notice of termination of  
2 employment, during which notice period the employee remains  
3 employed by the employer and receives compensation, ~~or~~ (7)  
4 agreements by which the employee agrees not to reapply for  
5 employment to the same employer after termination of the  
6 employee, or (8) a covenant or agreement restricting the  
7 employee during the employee's current employment, including  
8 during a subsequent option period.

9 "Covenant not to solicit" means an agreement that is  
10 entered into after the effective date of this amendatory Act  
11 of the 102nd General Assembly between an employer and an  
12 employee that (1) restricts the employee from soliciting for  
13 employment the employer's employees or (2) restricts the  
14 employee from soliciting, for the purpose of selling products  
15 or services of any kind to, or from interfering with the  
16 employer's relationships with, the employer's clients,  
17 prospective clients, vendors, prospective vendors, suppliers,  
18 prospective suppliers, or other business relationships.

19 "Earnings" means the compensation, including earned  
20 salary, earned bonuses, earned commissions, or any other form  
21 of taxable compensation, reflected or that is expected to be  
22 reflected as wages, tips, and other compensation on the  
23 employee's IRS Form W-2 plus any elective deferrals not  
24 reflected as wages, tips, and other compensation on the  
25 employee's IRS Form W-2, such as, without limitation, employee  
26 contributions to a 401(k) plan, a 403(b) plan, a flexible

1 spending account, or a health savings account, or commuter  
2 benefit-related deductions.

3 "Employee" means any individual permitted to work by an  
4 employer in an occupation.

5 "Employer" has the meaning given to such term in  
6 subsection (c) of Section 3 of the Minimum Wage Law.

7 "Employer" does not include governmental or quasi-governmental  
8 bodies.

9 "Construction" means any constructing, altering,  
10 reconstructing, repairing, rehabilitating, refinishing,  
11 refurbishing, remodeling, remediating, renovating, custom  
12 fabricating, maintenance, landscaping, improving, wrecking,  
13 painting, decorating, demolishing, and adding to or  
14 subtracting from any building, structure, highway, roadway,  
15 street, bridge, alley, sewer, ditch, sewage disposal plant,  
16 water works, parking facility, railroad, excavation or other  
17 structure, project, development, real property or improvement,  
18 or to do any part thereof, whether or not the performance of  
19 the work herein described involves the addition to, or  
20 fabrication into, any structure, project, development, real  
21 property or improvement herein described of any material or  
22 article of merchandise.

23 "Athletic competition" means a contest or event where  
24 athletes or teams compete against each other, based on  
25 specific rules, to demonstrate their skills.

26 "Health care facility" means a hospital or hospital

1 affiliate licensed under the Hospital Licensing Act or an  
2 ambulatory surgical treatment center as defined in the  
3 Ambulatory Surgical Treatment Center Act.

4 "Health care worker" has the meaning given to that term in  
5 Section 5 of the Health Care Violence Prevention Act.

6 "Option period" means a provision in an employment  
7 agreement for work performed in performing arts or athletic  
8 competition that gives an employer the right, for a defined  
9 period of time, to negotiate with an employee for an extension  
10 of a current employment agreement or to enter into a  
11 subsequent employment agreement.

12 "Performing arts" includes, but is not limited to, live or  
13 prerecorded theatrical, musical, or dance performances, motion  
14 pictures, and television programs.

15 "Post-employment" means the period after the current  
16 employment, including any option periods, has concluded

17 (Source: P.A. 102-358, eff. 1-1-22.)

18 (820 ILCS 90/10)

19 Sec. 10. Prohibiting covenants not to compete and  
20 covenants not to solicit.

21 (a) Before January 1, 2026, no ~~No~~ employer shall enter  
22 into a covenant not to compete with any employee unless the  
23 employee's actual or expected annualized rate of earnings  
24 exceeds \$75,000 per year. On and after January 1, 2026, no  
25 employer shall enter into a covenant not to compete with any

1 employee, unless the employee is a health care worker who does  
2 not work under a contract of employment with a health care  
3 facility and the employee's actual or expected annualized rate  
4 of earnings exceeds \$75,000 per year. This amount shall  
5 increase to \$80,000 per year beginning on January 1, 2027,  
6 \$85,000 per year beginning on January 1, 2032, and \$90,000 per  
7 year beginning on January 1, 2037. A covenant not to compete  
8 entered into in violation of this subsection is void and  
9 unenforceable.

10 (b) Before January 1, 2026, no ~~No~~ employer shall enter  
11 into a covenant not to solicit with any employee unless the  
12 employee's actual or expected annualized rate of earnings  
13 exceeds \$45,000 per year. On and after January 1, 2026, no  
14 employer shall enter into a covenant not to solicit with any  
15 employee, unless the employee is a health care worker who does  
16 not work under a contract of employment with a health care  
17 facility and the employee's annualized rate of earnings  
18 exceeds \$45,000 per year. This amount shall increase to  
19 \$47,500 per year beginning on January 1, 2027, \$50,000 per  
20 year beginning on January 1, 2032, and \$52,500 per year  
21 beginning on January 1, 2037. A covenant not to solicit  
22 entered into in violation of this subsection is void and  
23 unenforceable.

24 (c) (Blank). ~~No employer shall enter into a covenant not~~  
25 ~~to compete or a covenant not to solicit with any employee who~~  
26 ~~an employer terminates or furloughs or lays off as the result~~

1 ~~of business circumstances or governmental orders related to~~  
2 ~~the COVID-19 pandemic or under circumstances that are similar~~  
3 ~~to the COVID-19 pandemic, unless enforcement of the covenant~~  
4 ~~not to compete includes compensation equivalent to the~~  
5 ~~employee's base salary at the time of termination for the~~  
6 ~~period of enforcement minus compensation earned through~~  
7 ~~subsequent employment during the period of enforcement. A~~  
8 ~~covenant not to compete or a covenant not to solicit entered~~  
9 ~~into in violation of this subsection is void and~~  
10 ~~unenforceable.~~

11 (d) A covenant not to compete is void and illegal with  
12 respect to individuals covered by a collective bargaining  
13 agreement under the Illinois Public Labor Relations Act or the  
14 Illinois Educational Labor Relations Act.

15 (e) A covenant not to compete or a covenant not to solicit  
16 is void and illegal with respect to individuals employed in  
17 construction, regardless of whether an individual is covered  
18 by a collective bargaining agreement. ~~This subsection (e) does~~  
19 ~~not apply to construction employees who primarily perform~~  
20 ~~management, engineering or architectural, design, or sales~~  
21 ~~functions for the employer or who are shareholders, partners,~~  
22 ~~or owners in any capacity of the employer.~~

23 (f) Any covenant not to compete or covenant not to solicit  
24 entered into after January 1, 2025 (the effective date of  
25 Public Act 103-915) shall not be enforceable with respect to  
26 the provision of mental health services to veterans and first

1 responders by any licensed mental health professional in this  
2 State if the enforcement of the covenant not to compete or  
3 covenant not to solicit is likely to result in an increase in  
4 cost or difficulty for any veteran or first responder seeking  
5 mental health services.

6 For the purpose of this subsection:

7 "First responders" means any persons who are currently or  
8 formerly employed as: (i) emergency medical services  
9 personnel, as defined in the Emergency Medical Services (EMS)  
10 Systems Act, (ii) firefighters, and (iii) law enforcement  
11 officers.

12 "Licensed mental health professional" means a person  
13 licensed under the Clinical Psychologist Licensing Act, the  
14 Clinical Social Work and Social Work Practice Act, the  
15 Marriage and Family Therapy Licensing Act, the Nurse Practice  
16 Act, or the Professional Counselor and Clinical Professional  
17 Counselor Licensing and Practice Act.

18 (g) Any covenant not to compete or covenant not to solicit  
19 entered into after the effective date of this amendatory Act  
20 of the 104th General Assembly shall not be enforceable with  
21 respect to the provision of reproductive health care or  
22 maternity care by a health care professional in this State if  
23 (i) a medical practice or health care facility limits or  
24 eliminates maternal or reproductive health services or (ii) a  
25 medical practice or health care facility is purchased and the  
26 buyer limits or eliminates maternal or reproductive health

1 services. In an action to enforce a covenant not to compete or  
2 covenant not to solicit entered into after the effective date  
3 of this amendatory Act of the 104th General Assembly, a  
4 medical practice or health care facility that has limited or  
5 eliminated maternal or reproductive health services and that  
6 is seeking to enforce the covenant not to compete or the  
7 covenant not to solicit, or the buyer of a medical practice or  
8 health care facility that limits or eliminates maternal or  
9 reproductive health services and that is seeking to enforce  
10 the covenant not to compete or the covenant not to solicit, has  
11 the burden of proving that it will not reduce the availability  
12 of reproductive health care or maternity care in this State  
13 within a 50-mile radius from the location of the medical  
14 practice or health care facility.

15 As used in this subsection, health care professional",  
16 "maternity care", and "reproductive health care" have the  
17 meaning given to those terms in Section 1-10 of the  
18 Reproductive Health Act.

19 (Source: P.A. 102-358, eff. 1-1-22; 103-915, eff. 1-1-25;  
20 103-921, eff. 1-1-25; 103-1062, eff. 2-7-25.)

21 (820 ILCS 90/15)

22 Sec. 15. Enforceability of a covenant not to compete or a  
23 covenant not to solicit.

24 (a) A covenant not to compete or a covenant not to solicit  
25 entered into on or after January 1, 2026 is illegal and void

1 regardless of where and when the covenant not to compete or the  
2 covenant not to solicit was entered into unless the covenant  
3 otherwise complies with the requirements of Section 10.

4 (b) A covenant not to compete or a covenant not to solicit  
5 entered into before January 1, 2026 is illegal and void unless  
6 (1) the employee receives adequate consideration, (2) the  
7 covenant is ancillary to a valid employment relationship, (3)  
8 the covenant is no greater than is required for the protection  
9 of a legitimate business interest of the employer, (4) the  
10 covenant does not impose undue hardship on the employee, ~~and~~  
11 (5) the covenant is not injurious to the public, and (6) the  
12 covenant otherwise complies with the requirements of Section  
13 10.

14 (c) An employer or former employer shall not attempt to  
15 enforce a contract that is void and unenforceable under this  
16 Act regardless of whether the contract was signed and the  
17 employment was maintained outside of this State.

18 (Source: P.A. 102-358, eff. 1-1-22.)

19 (820 ILCS 90/7 rep.)

20 (820 ILCS 90/20 rep.)

21 (820 ILCS 90/35 rep.)

22 Section 10. The Illinois Freedom to Work Act is amended by  
23 repealing Sections 7, 20, and 35.

24 Section 99. Effective date. This Act takes effect January

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1 1, 2026.".