

1 ENGROSSED SENATE  
2 BILL NO. 1771

By: Johnson (Rob) of the Senate

3 and

4 Schwartz of the House

5  
6 [ noncompetition agreements - requiring modification  
7 - effective date ]  
8

9 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

10 SECTION 1. AMENDATORY 15 O.S. 2011, Section 219A, is  
11 amended to read as follows:

12 Section 219A. A. A person ~~who makes~~ may make an agreement with  
13 ~~an employer, whether in writing or verbally,~~ not to compete with the  
14 ~~an employer after the employment relationship has been terminated,~~  
15 ~~shall be permitted to engage in the same business as that conducted~~  
16 ~~by the former employer or in a similar business as that conducted by~~  
17 ~~the former employer as long as the former employee does not directly~~  
18 ~~solicit the sale of goods, services or a combination of goods and~~  
19 ~~services from the established customers of the former employer or~~  
20 ~~contracting party, as long as such agreement complies with~~  
21 subsections B, C and D of this section, as applicable.

22 B. ~~Any provision in a contract between an employer and an~~  
23 ~~employee in conflict with the provisions of this section shall be~~  
24 ~~void and unenforceable~~ A person and an employer or contracting party

1 may enter into a written agreement that prohibits the person from  
2 directly or indirectly engaging in the same or similar business as  
3 that conducted by the employer or contracting party. The person  
4 shall have been employed by or working as a contractor for the  
5 employer or contracting party for the previous twelve (12) months  
6 for such agreement to be effective. The person's compensation for  
7 the prior twelve-month period from the date of the end of the  
8 employment or contractual relationship shall have been in excess of  
9 One Hundred Thousand Dollars (\$100,000.00), which includes wages,  
10 bonuses, commissions, stock options or grants and any other form of  
11 compensation or benefits provided by the employer or contracting  
12 party. A person is subject to this provision regardless of the  
13 reason that the employment or contractual relationship ended, unless  
14 the employment or contractual relationship is terminated by the  
15 employer or contracting party without good cause. The  
16 noncompetition agreement shall be limited to a period not to exceed  
17 twelve (12) months, and shall be limited to the United States of  
18 America. For purposes of this section, "good cause" exists when in  
19 the discretion of the employer or contracting party, the person  
20 fails to adequately perform his or her job duties and  
21 responsibilities or fails to act, or commits an act which is not in  
22 the best interest of the employer or contracting party.

23 C. A person and an employer or contracting party may enter into  
24 a written agreement that prohibits the person from directly or

1 indirectly soliciting or contacting any client, customer, supplier  
2 or vendor of the employer or contracting party for a period of up to  
3 eighteen (18) months from the end of the employment or contractual  
4 relationship, and shall be limited to the United States of America.  
5 The solicitation shall encompass the current clients, customers,  
6 suppliers and vendors of the employer or contracting party, and may  
7 encompass past clients, customers, suppliers or vendors if the  
8 person had any contact or conducted business with such parties at  
9 any time during the past twelve (12) months of the employment or  
10 contractual relationship. A person is subject to this provision  
11 regardless of the reason that the employment or contractual  
12 relationship ended.

13 D. A person and an employer or contracting party may enter into  
14 a written agreement that prohibits the person for a period of up to  
15 twelve (12) months from directly or indirectly soliciting, inducing  
16 or contacting or directly or indirectly assisting another party from  
17 soliciting, inducing or contacting any employee or contractor of the  
18 employer or contracting party to terminate his or her employment or  
19 contractual relationship to be employed by or provide business  
20 assistance or services to another party.

21 E. Any written agreement that conflicts with the terms of  
22 subsections B, C and D of this section shall be modified or reformed  
23 by a court or administrative body, including an arbitrator, to  
24 comply with such subsections. Any court of applicable jurisdiction

