

Utah Amends Three-Year-Old Non-Compete Law For Second Time In Two Years

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After enacting its non-compete law on April 7, 2016, Utah has twice amended the law to address additional restrictions on non-competes in the broadcasting industry. Governor Gary Herbert signed the second of those amended bills on March 22, 2019.

The Original Non-Compete Law

Utah's original non-compete law, which [we covered in an article](#) dated April 7, 2016, imposed a one-year post-employment time limit on non-competes, except where the non-competes were part of a severance agreement or where they related to or arose out of the sale of a business. The law also authorized employees to seek damages and attorney's fees against employers who attempted to enforce invalid non-competes.

The 2018 Amendment

On March 27, 2018, the State amended its non-compete law to impose special restrictions with respect to employees in the broadcasting industry (see [our related article](#), dated April 2, 2018). Specifically, the 2018 amendment provided that, for a non-compete agreement to be enforceable against an employee of a broadcasting company, the company had to establish the following elements:

- The employee was paid a salary of at least \$913 per week (i.e., \$47,476 per year);
- The covenant was part of a written employment contract of no more than four years; and
- The employee was either terminated "for cause" or had breached the employment contract "in a manner that results in" his or her separation of employment.

In addition, the 2018 amendment prohibited non-competes from extending beyond the original term of the employee's written contract.

The 2019 Amendment

On March 22, 2019, Governor Herbert signed into law [House Bill 199](#), making a limited change to the provision on broadcasting employees. Specifically, the new law focuses on the year-old requirement that a non-compete in the broadcasting industry must be part of a *written contract of no more than four years in duration* in order to be valid. Eliminating the four-year written contract requirement, the law now provides that the non-compete must be "part of a written contract of reasonable duration, based on industry standards, the position, the broadcasting employee's experience, geography, and the parties' unique circumstances."

There appears to have been limited media reporting regarding the newest amendment. However, legislators presumably believed the hard, four-year cap on written contract durations did not reflect the realities of the broadcasting industry. Consequently, the new law gives judges more leeway to evaluate the unique circumstances of individual parties, before determining whether a non-compete agreement is reasonable and enforceable.



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