

State of South Dakota

NINETY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 2019

846B0341

SENATE BILL NO. 120

Introduced by: Senators Greenfield (Brock), Langer, Maher, and Nesiba and Representatives Peterson (Sue), Brunner, Greenfield (Lana), Johnson (David), and Rasmussen

1 FOR AN ACT ENTITLED, An Act to modify the time period allowable for certain covenants
2 not to compete.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 53-9-11 be amended to read:

5 53-9-11. An employee may agree with an employer at the time of employment or at any time
6 during ~~his~~ the employment not to engage directly or indirectly in the same business or profession
7 as that of ~~his~~ the employer for any period not exceeding ~~two years~~ one year from the date of
8 termination of the agreement and not to solicit existing customers of the employer within a
9 specified county, first or second class municipality, or other specified area for any period not
10 exceeding ~~two years~~ one year from the date of termination of the agreement, if the employer
11 continues to carry on a like business therein.

12 Section 2. That § 53-9-12 be amended to read:

13 53-9-12. Any independent contractor who is an insurance producer as defined in subdivision
14 58-1-2(16) and is a captive agent who is not an independent agent and who works exclusively
15 for a single insurance company or an affiliated group of insurance companies, even if the single



1 insurance company allows its captive agents to market the products of another insurance
2 company pursuant to contract, may agree with an insurer at the time of contracting or at any time
3 during the term of the contract:

4 (1) Not to engage directly or indirectly in the same business or profession as that of the
5 insurer for any period not exceeding ~~two years~~ one year from the date of termination
6 of the independent contractor's agreement with the insurer; and

7 (2) Not to solicit existing customers of the insurer within a specified county, first or
8 second class municipality, or other specified area for any period not exceeding ~~two~~
9 years one year from the date of termination of the agreement, if the insurer continues
10 to carry on a like business within the specified area.