



2020 South Dakota Legislature

Senate Bill 108

Introduced by: **Senator Brock Greenfield**

1 **An Act to revise the time period allowable for certain covenants not to compete.**

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

3 **Section 1.** That § 53-9-11 be AMENDED:

4 **53-9-11. Employment contract--Covenants not to compete.**

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

12 **Section 2.** That § 53-9-12 be AMENDED:

13 **53-9-12. Contracts of independent contractor who is captive insurance**
14 **agent--Covenants not to compete.**

15 Any independent contractor who is an insurance producer as defined in subdivision
16 58-1-2(16) and is a captive agent who is not an independent agent and who works
17 exclusively for a single insurance company or an affiliated group of insurance companies,
18 even if the single insurance company allows its captive agents to market the products of
19 another insurance company pursuant to contract, may agree with an insurer at the time
20 of contracting or at any time during the term of the contract:

- 21 (1) Not to engage directly or indirectly in the same business or profession as that of
22 the insurer for any period not exceeding ~~two years~~ one year from the date of
23 termination of the independent contractor's agreement with the insurer; and
24 (2) Not to solicit existing customers of the insurer within a specified county, first or
25 second class municipality, or other specified area for any period not exceeding ~~two~~

- 1 ~~years~~ one year from the date of termination of the agreement, if the insurer
2 continues to carry on a like business within the specified area.