

2020 Regular Session

SENATE BILL NO. 345

BY SENATOR JOHNS

CONTRACTS. Provides relative to noncompete agreements. (8/1/20)

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AN ACT

To amend and reenact R.S. 23:921(D), (E), (F)(1)(b) and (c), relative to contracts; to provide relative to a noncompete contract or agreement; to provide relative to terms and conditions of the contract or agreement; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 23:921(D), (E), (F)(1)(b) and (c) are hereby amended and reenacted to read as follows:

§921. Restraint of business prohibited; restraint on forum prohibited; competing business; contracts against engaging in; provisions for

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D. For the purposes of Subsections B, ~~and C~~, **E, F, J, K, and L** of this Section, a person who becomes employed by a competing business, regardless of whether or not that person is an owner or equity interest holder of that competing business, may be deemed to be carrying on or engaging in a business similar to that of the party having a contractual right to prevent that person from competing.

E. Upon or in anticipation of a dissolution of the partnership, the partnership and the individual partners, including a corporation and the individual shareholders

1 if the corporation is a partner, may agree that ~~none of the partners will carry on~~ **shall**
 2 **refrain from carrying on or engaging in** a similar business within the same parish
 3 or parishes, or municipality or municipalities, or within specified parts thereof,
 4 where the partnership business has been transacted, not to exceed a period of two
 5 years from the date of dissolution.

F.(1) Parties to a franchise may agree that:

* * *

(b) The franchisee shall:

9 (I)(i) During the term of the franchise, refrain from competing with the
 10 franchisor or other franchisees of the franchisor or **carrying on or** engaging in any
 11 other business similar to that which is the subject of the franchise.

12 (ii) For a period not to exceed two years following severance of the franchise
 13 relationship, refrain from **carrying on or** engaging in any other business similar to
 14 that which is the subject of the franchise and from competing with or soliciting the
 15 customers of the franchisor or other franchisees of the franchisor.

(c) The employee if employed by a franchisor shall:

17 (i) During the term of his employment by the franchisor, refrain from
 18 competing with his employer or any of the franchisees of his employer or **carrying**
 19 **on or** engaging in any other business similar to that which is the subject of the
 20 franchise.

21 (ii) For a period not to exceed two years following severance of the
 22 employment relationship between the franchisor and the employee, refrain from
 23 **carrying on or** engaging in any other business similar to that which is the subject
 24 of the franchise between the franchisor and its franchisees and from competing with
 25 or soliciting the customers of his employer or the franchisees of his employer.

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The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Michelle Ridge.

DIGEST

SB 345 Engrossed

2020 Regular Session

Johns

Present law provides that except as provided by law, every contract or agreement by which anyone is restrained from exercising a lawful profession, trade, or business of any kind shall be null and void.

Present law provides that upon or in anticipation of the dissolution of a partnership, the partnership and the partners may agree that none of the partners will carry on a similar business within a specific area and for a specified period of time.

Proposed law adds that the agreement can restrain the partners from engaging in a similar business within a specific area and for a specified period of time.

Present law provides that a franchise may enter into a contract that requires the franchisee to refrain from competing with certain persons or engaging in any other business similar to the franchise for a specified period of time.

Proposed law adds that the contract can restrain the franchisee from carrying on any other business similar to the franchise.

Present law allows a corporation, partnership, and a limited liability company to agree that its shareholders, partners, or members will refrain from carrying on or engaging in a business similar to that of the their business within a specific area and for a specified period of time after the date the shareholder, partner, or member's relationship with the business entity ends.

Present law provides that a person who becomes employed by a competing business, regardless of whether or not that person is an owner or equity interest holder of that competing business, may be deemed to be carrying on or engaging in a business similar to that of the party having a contractual right to prevent that person from competing.

Proposed law extends the application of present law to a corporation, partnership, limited liability, and franchise.

Effective August 1, 2020.

(Amends R.S. 23:921(D), (E), and (F)(1)(b) and (c))