

AN ACT

ENTITLED, An Act to except contracts of independent contractors who are captive insurance agents from the prohibition against contracts in restraint of trade.

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

Section 1. That § 53-9-8 be amended to read as follows:

53-9-8. Any contract restraining exercise of a lawful profession, trade, or business is void to that extent, except as provided by §§ 53-9-9 to 53-9-11, inclusive, and section 2 of this Act.

Section 2. That chapter 53-9 be amended by adding thereto a NEW SECTION to read as follows:

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

- (1) Not to engage directly or indirectly in the same business or profession as that of the insurer for any period not exceeding two years from the date of termination of the independent contractor's agreement with the insurer; and
- (2) Not to solicit existing customers of the insurer within a specified county, first or second class municipality, or other specified area for any period not exceeding two years from the date of termination of the agreement, if the insurer continues to carry on a like business within the specified area.

An Act to except contracts of independent contractors who are captive insurance agents from the prohibition against contracts in restraint of trade.

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I certify that the attached Act originated in the

HOUSE as Bill No. 1101

\_\_\_\_\_  
Chief Clerk

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\_\_\_\_\_  
Speaker of the House

Attest:

\_\_\_\_\_  
Chief Clerk

\_\_\_\_\_  
President of the Senate

Attest:

\_\_\_\_\_  
Secretary of the Senate

House Bill No. 1101  
File No. \_\_\_\_\_  
Chapter No. \_\_\_\_\_

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Received at this Executive Office this \_\_\_\_\_ day of \_\_\_\_\_ ,

20\_\_\_\_ at \_\_\_\_\_ M.

By \_\_\_\_\_  
for the Governor

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The attached Act is hereby approved this \_\_\_\_\_ day of \_\_\_\_\_ , A.D., 20\_\_\_\_

\_\_\_\_\_  
Governor

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STATE OF SOUTH DAKOTA,  
ss.

Office of the Secretary of State

Filed \_\_\_\_\_ , 20\_\_\_\_  
at \_\_\_\_\_ o'clock \_\_ M.

\_\_\_\_\_  
Secretary of State

By \_\_\_\_\_  
Asst. Secretary of State