

Although Mississippi does not have any “bright line” regarding when a non-compete provision crosses from “enforceable” to “unenforceable,” below are some key takeaways from Mississippi courts that will help you further assess the potential enforceability of a particular non-compete provision:

Geographic Limitations

- Non-compete provision prohibiting former employee from engaging in competitive activity within a 50-mile radius of existing employer locations as of date the agreement containing non-compete provision was signed was found to be reasonable.
- Restriction prohibiting an employee from engaging in restricted activities within a 100-mile radius of any city where the former employee worked for the employer was reasonable where the former employee’s work took him or her to locations across Mississippi.
- An employer’s restriction prohibiting a former employee from working anywhere in the state of Mississippi is not per se unreasonable, but where the former employee demonstrated that his or her particular activities were restricted to a specific portion of the state (Tupelo-area), the provision was reformed to a 50-mile radius around the Tupelo city limits.

Restricted Period

- A two-year restrictive period was found to be reasonable in conjunction with the non-compete provision’s geographic limitation on restricted activities within a 50-mile radius of Jackson.
- A five-year non-compete period was deemed reasonable on the basis that it struck a “reasonable balance” between the needs of the employer and former employee.
- A six-year restricted period was found to be reasonable involving a former owner of a propane and gas appliance business.

Restricted Activity

- A non-compete provision prohibiting a former employee for working for any competitor that operated within a 50-mile radius of any location where the former employee worked within 24 months prior to termination was unreasonable.
 - However, this ruling was in the context of an employee determined to be terminated in bad faith by the employer, and other Mississippi cases demonstrate that resigning employees may not be able to make the same argument.
- Where a non-compete provision did not prevent a former employee from engaging in his or her “primary employment,” a non-compete provision with a six-year restricted period against specific activities was not unreasonable.

With the foregoing examples in mind, also remember that Mississippi courts will reform what they deem to be an unreasonable non-compete clause to include reasonable limitations based on the particular facts of the case.



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