

Statute	Ala. Code § 8-1-190 et seq., effective Jan. 1, 2016.
Continued Employment Adequate Consideration?	Yes.
Enforceable against professionals?	Probably not. Before passage of new statute, non-competes were unenforceable against professionals; statute expressly does not interfere with pre-existing law on this point. Whether non-solicitation of customer restrictions against professionals are unenforceable is less clear.
General Requirements for Enforcement	Party seeking enforcement must have protectable interest; contract must be in writing, signed, and supported by adequate consideration; contracts must be subject to reasonable time and place restraints. Undue hardship is a defense to be proven by the defendant.
What types of employees can be subject to noncompete covenants?	Those having access to trade secrets or confidential information of employer; those having commercial relationships or contacts with specific prospective or existing customers, vendors, patients or clients; and those having received specialized and unique training (provided that such training is described in the contract).
“Blue penciling” of overbroad covenants?	Yes.
What time periods are likely to be upheld?	For non-competes, two years is presumptively reasonable. For a covenant (whether a non-compete or customer solicitation restriction) given in connection with the sale of a business, one year is presumptively reasonable. For a customer solicitation restriction by an employee, 18 months (or whatever period of time post-separation consideration is being paid for the promise) is presumptively reasonable.
Any other special prohibitions on enforcement?	For employer/employee covenants, employee must be employed at time non-compete is entered into. Non-competes are unenforceable against independent contractors (as well as professionals). Under certain circumstances successor employers may be prohibited from enforcing noncompete agreements entered into by their predecessors.



James A. Collura
Partner
Houston
jcollura@bradley.com
713.576.0303



John E. Goodman
Partner
Birmingham
jgoodman@bradley.com
205.521.8476