

26 other:

27 1. Conduct demonstrating conscious disregard of an
28 employer's interests and found to be a deliberate violation or
29 disregard of the reasonable standards of behavior which the
30 employer expects of his or her employee, agent, or independent
31 contractor. Such conduct may include, but is not limited to,
32 willful damage to an employer's property that results in damage
33 of more than \$500, or theft of employer property or property of
34 a customer or invitee of the employer.

35 2. Carelessness or negligence to a degree or recurrence
36 that manifests culpability or wrongful intent or shows an
37 intentional and substantial disregard of the employer's
38 interests or of the employee's, agent's, or independent
39 contractor's duties and obligations to his or her employer.

40 3. Chronic absenteeism or tardiness in deliberate
41 violation of a known policy of the employer or one or more
42 unapproved absences following a written reprimand or warning
43 relating to more than one unapproved absence.

44 4. A willful and deliberate violation of a standard or
45 regulation of the state by an employee, agent, or independent
46 contractor of an employer licensed or certified by the state,
47 which violation would cause the employer to be sanctioned or
48 have its license or certification suspended by the state.

49 5. A violation of an employer's rule, unless the employee,
50 agent, or independent contractor can demonstrate that:

51 a. He or she did not know, and could not reasonably know,
 52 of the rule's requirements;

53 b. The rule is not lawful or not reasonably related to the
 54 job environment and performance; or

55 c. The rule is not fairly or consistently enforced.

56 6. Committing criminal assault or battery on another
 57 employee, or on a customer or invitee of the employer, or
 58 committing abuse or neglect of a patient, resident, disabled
 59 person, elderly person, or child in her or his professional
 60 care.

61 (c) This subsection does not invalidate a covenant that
 62 prohibits disclosing a trade secret of the employer to third
 63 parties.

64 (d) This subsection does not apply to a restrictive
 65 covenant sought to be enforced against a former employee, agent,
 66 or independent contractor who is associated with the sale of all
 67 or a part of:

68 1. The assets of a business or professional practice;
 69 2. The shares of a corporation;
 70 3. A partnership interest;
 71 4. A limited liability company membership; or
 72 5. An equity interest, of any other type, in a business or
 73 professional practice.

74 (4)(a) Subsections (1) and (2) apply to restrictive
 75 covenants entered into on or after July 1, 1996, and before June

HB 1191

2022

76 | 30, 2022.

77 | (b) Subsection (3) applies to restrictive covenants
78 | entered into on or after July 1, 2022 ~~This act shall apply~~
79 | ~~prospectively, and it shall not apply in actions determining the~~
80 | ~~enforceability of restrictive covenants entered into before July~~
81 | ~~1, 1996.~~

82 | Section 2. This act shall take effect July 1, 2022.