Section 1 Header

2023 SESSION

23-0187.1
06/04

HOUSE BILL   *[bill number]*

AN ACT   prohibiting certain noncompete clauses and nondisclosure agreements regarding free software projects and the sharing of open source software.

SPONSORS: [sponsors]

COMMITTEE: [committee]

ANALYSIS

This bill prohibits certain noncompete clauses and nondisclosure agreements regarding free software projects and the sharing of open source software.

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Explanation: Matter added to current law appears in **bold italics.**
Matter removed from current law appears [in brackets and struckthrough.]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

23-0187.1
06/04

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Three

AN ACT   prohibiting certain noncompete clauses and nondisclosure agreements regarding free software projects and the sharing of open source software.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1   1 New Chapter; Free and Open Source Software. Amend RSA by inserting after chapter 21-V

2   the following new chapter:

3   CHAPTER 21-W

4   FREE AND OPEN SOURCE SOFTWARE

5   21-W:1 Definitions. In this chapter:

6   I. "Free software" means software that gives users the freedom to run the program, to study

7   and change the program in source code form, to redistribute exact copies, and to distribute modified

8   versions.

9   II. "Noncompete clause" shall refer to a clause of a contract in which an employer requires

10   an employee to agree not to provide assistance to the employer's competitors. Such clauses may also

11   be referred to as "restrictive covenants".

12   III. "Nondisclosure agreement" shall refer to any contract or clause of a contract that

13   restricts access to the sharing of certain information between the signing parties.

14   21-W:2 Noncompete Clauses. Notwithstanding RSA 275:70, any noncompete clause which

15   prevents an employee from contributing to a free software project such employee wishes to

16   contribute to shall be void and unenforceable in the state of New Hampshire.

17   21-W:3 Nondisclosure Agreement. No employer in the state of New Hampshire shall use a

18   nondisclosure agreement to prevent an employee from sharing the source code of free and open

19   source software that such employee would otherwise normally be able to share under the software's

20   license. Any such agreement shall be void and unenforceable.

21   21-W:4 National Security. Nothing in this chapter shall be interpreted to permit the violation of

22   federal security clearance protocols established by the United States Department of Defense.

23   2 Effective Date. This act shall take effect 60 days after its passage.