

Amendment to HB 1273

1 Amend RSA 21-W:1, II as inserted by section 2 of the bill by replacing it with the following:

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3 II. "Copyleft" means the practice of using copyright law to ensure that any free intellectual
4 property, in particular free software, remains free even after redistribution, modification, and use. A
5 "copyleft software license" is a license designed specifically to facilitate the use of copyright in this
6 way.

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8 Amend the bill by replacing sections 3 and 4 with the following:

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10 3 New Paragraph; Department of Information Technology; Purchasing Policy; Consideration of
11 Free and Open Source Software Required. Amend RSA 21-R:8-a by inserting after paragraph I the
12 following new paragraph:

13 I-a. No agency shall new purchase proprietary software unless the agency, in consultation
14 with the department, determines that no viable free and open source software alternative is
15 available. No agency shall purchase machinery, computing hardware, or robots that require
16 proprietary software for their primary function unless the agency, in consultation with the
17 department, determines that no viable alternative is available.

18 4 New Section; Criminal Code; Right to Examine Proprietary Source Code. Amend RSA 626 by
19 inserting after section 8 the following new section:

20 626:9 Discovery; Right to Examine Proprietary Source Code. A defendant shall have the right to
21 review the source code of any software used to generate evidence used against him or her in a
22 criminal proceeding, in order to assess the reliability of such evidence.

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AMENDED ANALYSIS

This bill:

I. Prohibits certain non-compete clauses and non-disclosure agreements regarding free software projects and the sharing of open source software.

II. Prohibits, with limited exception, state agencies from using proprietary software in interactions with the public.

III. Recognizes the value of data portability and directs the department of information technology to adopt a policy protecting data portability.

IV. Prohibits state and local law enforcement from participating in the enforcement of copyright claims against free and open source software projects.

V. Establishes a commission to study the use of free software by state agencies.

VI. Establishes a software purchasing policy that permits the purchase of proprietary software and hardware only when viable free software alternatives are not available.

VII. Allows the defendant to examine the source code of any software used to generate evidence against the defendant in a criminal proceeding.