HB 1363 - AS INTRODUCED

2022 SESSION

22-2803
04/08

HOUSE BILL ***1363***

AN ACT relative to the enforceability of noncompete agreements in areas in which there is determined to be a critical shortage of workers.

SPONSORS: Rep. Roy, Rock. 32

COMMITTEE: Labor, Industrial and Rehabilitative Services

ANALYSIS

This bill allows the commissioner of the department of labor to waive a noncompete agreement in times when the commissioner declares a critical shortage of a particular job or skill set.

- -

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

HB 1363 - AS INTRODUCED

22-2803
04/08

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Two

AN ACT relative to the enforceability of noncompete agreements in areas in which there is determined to be a critical shortage of workers.

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

1 Labor; Protective Legislation; Noncompete Agreements. Amend RSA 275:70 to read as follows:

275:70 Noncompete Agreements.

I. Any employer who requires an employee who has not previously been employed by the employer to execute a noncompete agreement as a condition of employment shall provide a copy of such agreement to the potential employee prior to the employee's acceptance of an offer of employment. A noncompete agreement that has not been disclosed to an employee as required by this section shall not be enforceable against the employee, but all other provisions of any employment, confidentiality, nondisclosure, trade secret, intellectual property assignment, or any other type of employment agreement or provision shall remain in full force and effect.

II.(a) Upon a finding by the commissioner of labor that a particular job or skill set is in high demand and that the commissioner has declared that a critical shortage of available workers to fill such positions exists, the commissioner may suspend any noncompete agreement in effect during the period of the critical shortage. In this paragraph, "critical shortage" means an unemployment rate of less than 3 percent for a particular job or skill set, as determined by the United States Department of Labor, Bureau of Labor Statistics.

(b) Any person who is unemployed at the time a critical shortage for a particular job or skill set is declared and is a party to noncompete agreement, may petition the commissioner in writing for a waiver of the noncompete agreement. If no waiver is sought or a party to an agreement is employed at the time a critical shortage is declared, the noncompete agreement shall remain in effect.

(c) A person or entity aggrieved by a decision of the commissioner to suspend a noncompete agreement may appeal, as a matter of right, to the supreme court. The attorney general's office shall defend the commissioner in any such appeal. The unemployment rate, as determined by the United States Department of Labor, Bureau of Labor Statistics at the time of the commissioner's decision, shall control in any such appeal.

(d) Any person who accepts employment subsequent to a decision by the commissioner shall be immune from liability in a civil action brought by a previous employer for a breach of contract pertaining to the noncompete agreement.

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