

LEGISLATIVE COMMITTEE MINUTES

SB197

Bill as
Introduced

SB 197 - AS INTRODUCED

2019 SESSION

19-0486

04/06

SENATE BILL **197**

AN ACT relative to noncompete agreements for low-wage employees.

SPONSORS: Sen. Watters, Dist 4; Sen. Cavanaugh, Dist 16; Sen. Feltes, Dist 15; Sen. Hennessey, Dist 5; Sen. Dietsch, Dist 9; Sen. Levesque, Dist 12; Sen. Sherman, Dist 24; Sen. Morgan, Dist 23; Sen. Gray, Dist 6; Sen. Kahn, Dist 10; Rep. Conley, Straf. 13; Rep. Cahill, Rock. 17

COMMITTEE: Commerce

ANALYSIS

This bill prohibits an employer from requiring a low-wage employee to enter into a noncompete agreement.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Nineteen

AN ACT relative to noncompete agreements for low-wage employees.

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

1 1 New Section; Protective Legislation; Noncompete Agreements for Low-Wage Employees.

2 Amend RSA 275 by inserting after section 70 the following new section:

3 275:70-a Noncompete Agreements for Low-Wage Employees Prohibited.

4 I. In this section:

5 (a) "Employer" shall have the same meaning as in RSA 279:1, XI.

6 (b) "Low-wage employee" means an employee who earns:

7 (1) An hourly rate less than or equal to 200 percent of the federal minimum wage;

8 or

9 (2) An hourly rate less than or equal to 200 percent of the tipped minimum wage
10 pursuant to RSA 279:21.

11 (c) "Noncompete agreement" means an agreement between an employer and a low-wage
12 employee that restricts such low-wage employee from performing:

13 (1) Work for another employer for a specified period of time;

14 (2) Work in a specified geographical area; or

15 (3) Work for another employer that is similar to such low-wage employee's work for
16 the employer who is a party to the agreement; and that is entered into after the effective date of this
17 section.

18 II.(a) No employer shall require a low-wage employee to enter into a noncompete
19 agreement.

20 (b) A noncompete agreement entered into between an employer and a low-wage
21 employee shall be void and unenforceable.

22 2 Effective Date. This act shall take effect 60 days after its passage.

SB 197 - AS AMENDED BY THE HOUSE

8May2019... 1839h

2019 SESSION

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12 (3) Work for another employer that is similar to such low-wage employee's work for
13 the employer who is a party to the agreement.

14 II.(a) No employer shall require a low-wage employee to enter into a noncompete agreement.

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SB 197 - FINAL VERSION ,

8May2019... 1839h

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CHAPTER 201
SB 197 - FINAL VERSION

8May2019... 1839h

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04/06

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15 (b) A noncompete agreement entered into between an employer and a low-wage
16 employee shall be void and unenforceable.

201:2 Effective Date. This act shall take effect 60 days after its passage.

Approved: July 10, 2019

Effective Date: September 08, 2019

Committee Minutes

SENATE CALENDAR NOTICE
Commerce

Sen Kevin Cavanaugh, Chair
Sen Jon Morgan, Vice Chair
Sen Donna Soucy, Member
Sen Chuck Morse, Member
Sen Harold French, Member

Date: February 6, 2019

HEARINGS

Tuesday	02/12/2019	
(Day)	(Date)	
Commerce	SH 100	1:00 p.m.
(Name of Committee)	(Place)	(Time)
1:00 p.m.	SB 271-FN-LOCAL	relative to requiring prevailing wages on state-funded public works projects.
1:15 p.m.	SB 62	relative to temporary layoffs of certain seasonal workers and establishing a commission to study school bus driver background checks.
1:30 p.m.	SB 197	relative to noncompete agreements for low-wage employees.
1:45 p.m.	SB 60	relative to advance notice to hourly employees of work schedules.
2:00 p.m.	SB 147	relative to adoption of the Uniform Fiduciary Access to Digital Assets Act.
2:15 p.m.	SB 149	relative to voluntary application of the uniform prudent management of institutional funds act to certain charitable trusts.

EXECUTIVE SESSION MAY FOLLOW

Sponsors:

SB 271-FN-LOCAL

Sen. Feltes
Sen. Levesque
Rep. Merner

Sen. Cavanaugh
Sen. Rosenwald
Rep. Ley

Sen. Fuller Clark
Sen. Soucy
Rep. Cushing

Sen. Hennessey
Sen. Watters

SB 62

Sen. Soucy
Sen. Cavanaugh
Rep. Williams

Sen. Hennessey
Sen. Kahn

Sen. Carson
Sen. Watters

Sen. Morgan
Rep. Bartlett

SB 197

Sen. Watters
Sen. Dietsch
Sen. Gray

Sen. Cavanaugh
Sen. Levesque
Sen. Kahn

Sen. Feltes
Sen. Sherman
Rep. Conley

Sen. Hennessey
Sen. Morgan
Rep. Cahill

SB 60

Sen. Fuller Clark

Rep. McBeath

SB 147

Sen. Feltes

Rep. Hunt

SB 149

Sen. Carson

Sen. Feltes

Sen. Morse

Rep. Hunt

Laura Bryant 271-1403

Kevin Cavanaugh
Chairman

Senate Commerce Committee

Laura Bryant 271-1403

SB 197, relative to noncompete agreements for low-wage employees.

Hearing Date: February 12, 2019

Time Opened: 2:30 p.m.

Time Closed: 2:44 p.m.

Members of the Committee Present: Senators Cavanaugh, Morgan, Soucy, Morse and French

Members of the Committee Absent : None

Bill Analysis: This bill prohibits an employer from requiring a low-wage employee to enter into a noncompete agreement.

Sponsors:

Sen. Watters

Sen. Cavanaugh

Sen. Feltes

Sen. Hennessey

Sen. Dietsch

Sen. Levesque

Sen. Sherman

Sen. Morgan

Sen. Gray

Sen. Kahn

Rep. Conley

Rep. Cahill

Who supports the bill: Glenn Brackett with NH AFL-CIO, Senator Jay Kahn, Senator David Watters, Senator Melanie Levesque, Senator James Gray, Timothy McKernan with Granite State Progress

Who opposes the bill: Senator David Starr

Who is neutral on the bill: None

Summary of testimony presented:

Senator David Watters, District 4:

- Senator Watters explained that this bill is about fundamental liberties, and how the state needs to ensure that low wage employees have a right to their own labor.
- Senator Watters said the practice of non-compete agreements puts a restraint on the free flow of labor.
- He also cited the suit against Jimmy Johns in New York in which the NY Attorney General said that non-compete agreements hurt vulnerable workers.
- Senator Watters further explained that this bill is limited to a certain set of employees that make 200% of the federal minimum wage or lower.

- Senator Watters also mentioned that there are provisions in law to protect trade secrets, but he finds it hard to imagine that if someone only pays a worker twice the minimum wage that the worker has a lot of trade secrets.
- Finally, Senator Watters stated that there is a similar bill in the House and that he spoke to Republican leaders in the House and they seemed more inclined to support the Senate version.

Senator French then asked if **Senator Watters** knew of any companies that require employees to sign non-compete agreements.

- Senator Watters said companies such as Jimmy Johns, salons, title loan companies do and that overall he's seen that non-competes are quite common.

LB

Date Hearing Report completed: February 13, 2019

Speakers

Voting Sheets

Senate Commerce Committee
EXECUTIVE SESSION RECORD
2019-2020 Session

Bill # 197

Hearing date: 2/12/19

Executive Session date: 2/12/19

Motion of: _____ Vote: 4-0

Committee Member	Made by	Second	Yes	No
Sen. Cavanaugh, Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Morgan, V- Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. French	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Morse	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Soucy	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Motion of: _____ Vote: _____

Committee Member	Made by	Second	Yes	No
Sen. Cavanaugh, Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Morgan, V- Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. French	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Morse	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Soucy	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Motion of: _____ Vote: _____

Committee Member	Made by	Second	Yes	No
Sen. Cavanaugh, Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Morgan, V- Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. French	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Morse	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Soucy	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Reported out by: Cavanaugh

Committee Report

STATE OF NEW HAMPSHIRE

SENATE

REPORT OF THE COMMITTEE

Tuesday, February 12, 2019

THE COMMITTEE ON Commerce

to which was referred **SB 197**

AN ACT

relative to noncompete agreements for low-wage employees.

Having considered the same, the committee recommends that the Bill

OUGHT TO PASS

BY A VOTE OF: 4-0

Senator Kevin Cavanaugh
For the Committee

Laura Bryant 271-1403

COMMERCE

SB 197, relative to noncompete agreements for low-wage employees.

Ought to Pass, Vote 4-0.

Senator Kevin Cavanaugh for the committee.

General Court of New Hampshire - Bill Status System

Docket of SB197

Docket Abbreviations

Bill Title: relative to noncompete agreements for low-wage employees.*Official Docket of SB197.:*

Date	Body	Description
1/22/2019	S	Introduced 01/03/2019 and Referred to Commerce; SJ 4
2/6/2019	S	Hearing: 02/12/2019, Room 100, SH, 01:30 pm; SC 10
2/12/2019	S	Committee Report: Ought to Pass, 02/21/2019; SC 11
2/21/2019	S	Ought to Pass: MA, VV; OT3rdg; 02/21/2019; SJ 6
3/21/2019	H	Introduced 03/20/2019 and referred to Labor, Industrial and Rehabilitative Services HJ 11 P. 70
3/27/2019	H	==TIME CHANGE== Public Hearing: 04/03/2019 02:00 pm LOB 307
4/10/2019	H	==RECESSED== Executive Session: 04/17/2019 02:30 pm LOB 307
4/24/2019	H	==CONTINUED== Executive Session: 05/01/2019 10:30 am LOB 307
5/1/2019	H	Committee Report: Ought to Pass with Amendment #2019-1598h for 05/08/2019 (Vote 19-0; CC) HC 23 P. 6
5/8/2019	H	Removed from Consent (Rep. Sullivan) 05/08/2019 HJ 15 P. 2
5/8/2019	H	Amendment #2019-1598h: AF VV 05/08/2019 HJ 15 P. 97
5/8/2019	H	FLAM #2019-1839h (Rep. Sullivan): AA VV 05/08/2019 HJ 15 P. 97
5/8/2019	H	Ought to Pass with Amendment 2019-1839h: MA VV 05/08/2019 HJ 15 P. 97
5/30/2019	S	Sen. Cavanaugh Moved to Concur with the House Amendment, MA, VV; 05/30/2019; SJ 18
6/18/2019	H	Enrolled 06/13/2019 HJ 19 P. 18
6/18/2019	S	Enrolled (In recess 06/13/2019); SJ 21
7/15/2019	S	Signed by the Governor on 07/10/2019; Chapter 201; Effective 09/08/2019

NH House

NH Senate

Other Referrals

Senate Inventory Checklist for Archives

Bill Number: SB197

Senate Committee: Commerce

Please include all documents in the order listed below and indicate the documents which have been included with an "X" beside

Final docket found on Bill Status

Bill Hearing Documents: {Legislative Aides}

Bill version as it came to the committee

All Calendar Notices

Hearing Sign-up sheet(s)

Prepared testimony, presentations, & other submissions handed in at the public hearing

Hearing Report

Revised/Amended Fiscal Notes provided by the Senate Clerk's Office

Committee Action Documents: {Legislative Aides}

All amendments considered in committee (including those not adopted):

___ - amendment # _____ ___ - amendment # _____

___ - amendment # _____ ___ - amendment # _____

Executive Session Sheet

Committee Report

Floor Action Documents: {Clerk's Office}

All floor amendments considered by the body during session (only if they are offered to the senate):

___ - amendment # _____ ___ - amendment # _____

___ - amendment # _____ ___ - amendment # _____

Post Floor Action: (if applicable) {Clerk's Office}

Committee of Conference Report (if signed off by all members. Include any new language proposed by the committee of conference):

Enrolled Bill Amendment(s)

Governor's Veto Message

All available versions of the bill: {Clerk's Office}

___ as amended by the senate ___ as amended by the house

___ final version

Completed Committee Report File Delivered to the Senate Clerk's Office By:

Committee Aide

Date

Senate Clerk's Office AK