

HOUSE BILL NO. 391

INTRODUCED BY D. ROBERTS

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A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING CRITERIA FOR ENFORCEABLE NONCOMPETE AGREEMENTS BETWEEN EMPLOYERS AND EMPLOYEES."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Enforceability of noncompete agreement.** (1) For the purposes of this section, "noncompete agreement" means an agreement between an employer and an employee, who is not an independent contractor, in which the employee agrees to not directly compete with the employer's business upon termination of the employee's employment with the employer.

(2) In order to be enforceable, a noncompete agreement between an employer and an employee must:

- (a) be in writing;
- (b) protect a legitimate interest of the employer, which may include but is not limited to:
  - (i) preventing an employee from disclosing internal matters;
  - (ii) preventing interference with customer and supplier relationships;
  - (iii) protecting business and trade secrets;
- (c) contain a reasonable limit on the geographic area in which the employee may not compete based upon the geographic area in which the employee worked prior to the termination of employment;
- (d) be effective only for a reasonable period of time; and
- (e) contain a provision setting out compensation for the employee for entering into the noncompete agreement that is in addition to any compensation that the employee would have received during the course of employment prior to the termination of the employment relationship.

NEW SECTION. **Section 2. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 28, chapter 2, and the provisions of Title 28, chapter 2, apply to [section 1].

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