HOUSE DOCKET, NO. 2713 FILED ON: 1/21/2011

HOUSE . . . . . No. 2296

The Commonwealth of Massachusetts

PRESENTED BY:

Sheila C. Harrington

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying:

An Act relative to the prohibition of noncompetition agreements.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Sheila C. Harrington	*1st Middlesex*
Denise Provost	*27th Middlesex*

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By Ms. Harrington of Groton, a petition (accompanied by bill, House, No. 2296) of Provost and Harrington relative to the prohibition of noncompetition business agreements Joint Committee on Labor and Workforce Development.

The Commonwealth of Massachusetts

An Act relative to the prohibition of noncompetition agreements.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Chapter 149 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by adding, after section 24K, the following new section:

" “Section 24I. (a) As used in this section, the following words shall have the following meanings:

“Business entity”, any (a) partnership, including a limited partnership or a limited liability partnership, (b) limited liability company, or, (c) corporation.

“Owner of a business entity”, any (a) partner, in the case of a business entity that is a partnership, or, (b) member, in the case of a business entity that is a limited liability company, or, (c) any owner of capital stock, in the case of a business entity that is a corporation.

“Ownership interest”, a (a) partnership interest, in the case of a business entity that is a partnership, including a limited partnership or a limited liability partnership, or, (b) membership interest, in the case of a business entity that is a limited liability company, or, (c) capital stockholder, in the case of a business entity that is a corporation.

“Subsidiary”, any business entity over which the selling business entity has voting control, or from which the selling business entity has a right to receive a majority share of distributions upon dissolution or other liquidation of the business entity, or has both voting control and a right to receive these distributions.

(b) Except as provided in this section, any contract that serves to restrict an employee or former employee from engaging in a lawful profession, trade, or business of any kind is deemed unlawful.

21 (c) Any person who sells the goodwill of a business, or any owner of a business entity
22 selling or otherwise disposing of all interest in the business entity, or any owner of a business
23 entity that sells (a) all or substantially all of its operating assets together with the goodwill of the
24 business entity, or; (b) all or substantially of the operating assets of a division or a subsidiary of
25 the business entity together with the goodwill of that division or subsidiary, or; (c) all of the
26 ownership interest of any subsidiary, may agree with the buyer to refrain from carrying on a
27 similar business within a specified geographic area in which the business so sold, or that of the
28 business entity, division, or subsidiary has been carried on, so long as the buyer, or person
29 deriving title to the goodwill or ownership interest from the buyer, carries on a like business
30 therein.

31 (d) In the case of a dissolution of partnership or a dissociation of the partner from the
32 partnership, any partner may, upon or in anticipation, agree to refrain from carrying on a similar
33 business within a specified geographic area where the partnership business has been transacted,
34 so long as any other member of the partnership, or any person deriving title to the business or its
35 goodwill from any such other member of the partnership, carries on a like business therein.

36 (e) In the case of a dissolution of a limited liability company, any member may, upon or
37 in anticipation of the termination of his interest in the limited liability company, agree to refrain
38 from carrying on a similar business within a specified geographic area where the limited liability
39 company business has been transacted, so long as any other member of the limited liability
40 company, or any person deriving title to the business or its goodwill from any such other
41 member of the limited liability company, carries on a like business therein.

42 (f) Nothing in this section shall serve to limit the creation or application of non-disclosure
43 agreements intended to prohibit the sharing of certain information, including but not limited to,
44 trade secrets, and proprietary or confidential information. ".