

CHAPTER 98-406

Committee Substitute for Senate Bill No. 814

An act relating to public records; creating s. 252.943, F.S.; providing an exemption from public records provisions for information provided by a stationary source subject to the Accidental Release Prevention Program under the federal Clean Air Act; providing an expiration date; providing a finding of public necessity; providing a contingent effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 252.943, Florida Statutes, is created to read:

252.943 Public records.—

(1) When the Department of Community Affairs is required to protect records, reports, or information or particular parts thereof, other than release or emissions data, contained in a risk management plan from public disclosure pursuant to Sections 112(r) and 114(c) of the federal Clean Air Act and authorities cited therein, based upon a showing satisfactory to the Administrator of the U.S. Environmental Protection Agency by any owner or operator of a stationary source subject to the Accidental Release Prevention Program that public release of such records, reports, or information would divulge methods or processes entitled to protection as trade secrets defined in 40 CFR Part II Subpart B, such records, reports, or information are confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution. Such information may not be disclosed except under a final determination by the Administrator of the Environmental Protection Agency that such records, reports, or information are not entitled to trade secret protection, or pursuant to an order of court. This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.15, and expires on October 2, 2003, unless reviewed and reenacted by the Legislature.

(2) When the department is required to protect records, reports, or information or particular parts thereof, other than release or emissions data, obtained from an investigation, inspection, or audit from public disclosure pursuant to Sections 112(r) and 114(c) of the federal Clean Air Act and authorities cited therein, based upon a showing satisfactory to the Administrator of the U.S. Environmental Protection Agency by any owner or operator of a stationary source subject to the Accidental Release Prevention Program that public release of such records, reports, or information would divulge methods or processes entitled to protection as trade secrets defined in 40 CFR Part II Subpart B, such records, reports, or information are confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution. Such records, reports, or information may not be disclosed except under a final determination by the Administrator of the Environmental Protection Agency that such records, reports, or information are not entitled to trade secret protection, or pursuant to an order of court.

This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.15, and expires on October 2, 2003, unless reviewed and reenacted by the Legislature.

Section 2. The Legislature finds that it is a public necessity that trade secret information provided by the owner or operator of a stationary source subject to the Accidental Release Prevention Program under the federal Clean Air Act be held confidential and exempt in order to protect the legitimate property interests associated with trade secrets while allowing state officials to review and oversee Risk Management Plans and conduct necessary investigations, inspections, or audits. Furthermore, the Legislature finds that disclosure of trade secret information is likely to cause substantial harm to the competitive position of the owner or operator of a stationary source.

Section 3. This act shall take effect on the effective date of Senate Bill 812 or similar legislation relating to clean air and shall not take effect if that legislation does not become a law.

Became a law without the Governor's approval June 17, 1998.

Filed in Office Secretary of State June 11, 1998.