

House Bill No. 1061

An act relating to public records; amending s. 500.148, F.S.; providing an exemption from public records requirements for certain federal information that is otherwise confidential under federal law and that is provided to the Department of Agriculture and Consumer Services for purposes of food safety investigations, federal-state contracts and partnership activities, and regulatory reviews; prohibiting the disclosure of such information unless a federal agency has found that the information is no longer entitled to protection or unless ordered by a court; providing for future legislative review and repeal; providing a finding of public necessity; providing an effective date.

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

Section 1. Section 500.148, Florida Statutes, is amended to read:

500.148 Reports and dissemination of information; confidentiality.—

(1) The department may publish from time to time reports summarizing all judgments and court orders that have been rendered under this chapter, including the nature of the charges and the disposition thereof.

(2) The department may also disseminate any information regarding food that it considers necessary in the interest of public health and the protection of the consumer against fraud. Nothing in this section shall be construed to prohibit the department from collecting, reporting, and illustrating the results of these investigations.

(3) Information deemed confidential under 21 C.F.R. part 20.61, part 20.62, or part 20.88, or 5 U.S.C. s. 552(b), and which is provided to the department during a joint food safety or food illness investigation, as a requirement for conducting a federal-state contract or partnership activity, or for regulatory review, is confidential and exempt from 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 appropriate federal agencies that such records are no longer entitled to protection, or pursuant to an order of the court. This section is subject to the Open Government Sunset Review Act of 1995 in accordance with s. 119.15, and shall stand repealed on October 2, 2008, unless reviewed and saved from repeal through reenactment by the Legislature.

~~(4)~~(3) Upon request of a food establishment, the department may issue a report certifying that the requesting food establishment currently complies with the sanitation and permitting requirements of this chapter and the rules promulgated thereunder. Such certification may be requested for the purpose of exporting food to a foreign country. The department is authorized to recover the cost associated with carrying out the provisions of this subsection, the amount of which shall be set by rule.

Section 2. The Legislature finds that it is a public necessity that information concerning investigations of food safety or food illness which is otherwise confidential under federal law remain confidential and exempt when shared with the Department of Agriculture and Consumer Services. It is essential that the department have access to such information provided by federal and other state agencies in order to conduct investigations and carry out contracts and partnership agreements. The Legislature further finds that federal agencies are reluctant to seek the department's review on important regulatory matters if information that is confidential under federal law would be subject to disclosure. Therefore, the Legislature finds that the harm caused by the release of such information substantially outweighs any minimal public benefit derived from disclosure of federal information that is otherwise confidential.

Section 3. This act shall take effect upon becoming a law.

Approved by the Governor June 20, 2003.

Filed in Office Secretary of State June 20, 2003.