

CHAPTER 2014-177

Committee Substitute for Senate Bill No. 366

An act relating to public records; amending s. 815.04, F.S.; amending an exemption from public records requirements for data, programs, and supporting documentation that are trade secrets residing or existing internal or external to a computer, computer system, or computer network; expanding the exemption to include such trade secret information residing or existing internal or external to an electronic device; providing for legislative review and repeal of the exemption; providing a statement of public necessity; providing a contingent effective date.

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

Section 1. Subsection (3) of section 815.04, Florida Statutes, is amended to read:

815.04 Offenses against intellectual property; public records exemption.

(3)(a) ~~Data, programs, or supporting documentation that which is a trade secret as defined in s. 812.081, that is held by an agency as defined in chapter 119, and that which resides or exists internal or external to a computer, computer system, or computer network, or electronic device which is held by an agency as defined in chapter 119 is confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution.~~

(b) Whoever willfully, knowingly, and without authorization discloses or takes data, programs, or supporting documentation which is a trade secret as defined in s. 812.081 or is confidential as provided by law residing or existing internal or external to a computer, computer system, or computer network commits an offense against intellectual property.

(c) This subsection is subject to the Open Government Sunset Review Act in accordance with s. 119.15, and shall stand repealed on October 2, 2019, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 2. The Legislature finds that it is a public necessity that data, programs, or supporting documentation that is a trade secret as defined in s. 812.081, Florida Statutes, that is held by an agency as defined in chapter 119, Florida Statutes, and that resides or exists internal or external to an electronic device be made confidential and exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution. The public release of such data, programs, and supporting documentation would negatively impact the business interests of those providing an agency such trade secrets by damaging the business in the marketplace. Without the public records exemption, those entities and individuals disclosing such trade secrets would hesitate to cooperate with that agency, which would impair the

effective and efficient administration of governmental functions. Thus, the public and private harm in disclosing data, programs, or supporting documentation that is a trade secret, and that resides or exists internal or external to an electronic device, significantly outweighs any public benefit derived from disclosure, and the public's ability to scrutinize and monitor agency action is not diminished by the nondisclosure of such trade secrets.

Section 3. This act shall take effect on the same date that SB 364 or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes a law.

Approved by the Governor June 20, 2014.

Filed in Office Secretary of State June 20, 2014.