

CHAPTER 2016-6

Committee Substitute for Committee Substitute for Senate Bill No. 182

An act relating to public records and meetings; amending ss. 119.071, 125.0104, 288.1226, 331.326, 365.174, 381.83, 403.7046, 403.73, 499.012, 499.0121, 499.051, 499.931, 502.222, 570.48, 573.123, 601.10, 601.15, 601.152, 601.76, and 815.04, F.S.; expanding public records exemptions for certain data processing software obtained by an agency, certain information held by a county tourism promotion agency, information related to trade secrets held by the Florida Tourism Industry Marketing Corporation, information related to trade secrets held by Space Florida, proprietary confidential business information submitted to the E911 Board, the Technology Program within the Department of Management Services, and the Department of Revenue, trade secret information held by the Department of Health, trade secret information reported or submitted to the Department of Environmental Protection, trade secret information held by the Department of Business and Professional Regulation pursuant to specified provisions of the Florida Drug and Cosmetic Act, trade secret information of a dairy industry business held by the Department of Agriculture and Consumer Services, trade secret information held by the Division of Fruits and Vegetables of the Department of Agriculture and Consumer Services, trade secret information of a person subject to a marketing order held by the Department of Agriculture and Consumer Services, trade secret information provided to the Department of Citrus, trade secret information of noncommodity advertising and promotional program participants held by the Department of Citrus, trade secret information of a person subject to a marketing order held by the Department of Citrus, a manufacturer's formula filed with the Department of Agriculture and Consumer Services, and specified data, programs, or supporting documentation held by an agency, respectively, to incorporate changes made to the definition of the term "trade secret" in s. 812.081, F.S., by SB 180; expanding a public meeting exemption for any meeting or portion of a meeting of Space Florida's board at which trade secrets are discussed to incorporate changes made to the definition of the term "trade secret" in s. 812.081, F.S., by SB 180; providing for future legislative review and repeal of the exemptions; providing a statement of public necessity; providing a contingent effective date.

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

Section 1. Paragraph (f) of subsection (1) of section 119.071, Florida Statutes, is amended to read:

119.071 General exemptions from inspection or copying of public records.—

(1) AGENCY ADMINISTRATION.—

(f) Data processing software obtained by an agency under a licensing agreement that prohibits its disclosure and which software is a trade secret, as defined in s. 812.081, and agency-produced data processing software that is sensitive are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. The designation of agency-produced software as sensitive does shall not prohibit an agency head from sharing or exchanging such software with another public agency. This paragraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2021, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 2. Paragraph (d) of subsection (9) of section 125.0104, Florida Statutes, is amended to read:

125.0104 Tourist development tax; procedure for levying; authorized uses; referendum; enforcement.—

(9) COUNTY TOURISM PROMOTION AGENCIES.—In addition to any other powers and duties provided for agencies created for the purpose of tourism promotion by a county levying the tourist development tax, such agencies are authorized and empowered to:

(d) Undertake marketing research and advertising research studies and provide reservations services and convention and meetings booking services consistent with the authorized uses of revenue as set forth in subsection (5).

1. Information given to a county tourism promotion agency which, if released, would reveal the identity of persons or entities who provide data or other information as a response to a sales promotion effort, an advertisement, or a research project or whose names, addresses, meeting or convention plan information or accommodations or other visitation needs become booking or reservation list data, is exempt from s. 119.07(1) and ~~from~~ s. 24(a), Art. I of the State Constitution.

2. The following information, when held by a county tourism promotion agency, is exempt from s. 119.07(1) and ~~from~~ s. 24(a), Art. I of the State Constitution:

~~a.~~ A trade secret, as defined in s. 812.081.

~~a.b.~~ Booking business records, as defined in s. 255.047.

~~b.e.~~ Trade secrets and commercial or financial information gathered from a person and privileged or confidential, as defined and interpreted under 5 U.S.C. s. 552(b)(4), or any amendments thereto.

3. A trade secret, as defined in s. 812.081, held by a county tourism promotion agency is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This subparagraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October

2, 2021, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 3. Subsection (8) of section 288.1226, Florida Statutes, is amended to read:

288.1226 Florida Tourism Industry Marketing Corporation; use of property; board of directors; duties; audit.—

(8) PUBLIC RECORDS EXEMPTION.—The identity of any person who responds to a marketing project or advertising research project conducted by the corporation in the performance of its duties on behalf of Enterprise Florida, Inc., or trade secrets as defined by s. 812.081 obtained pursuant to such activities, are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This subsection is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2021, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 4. Section 331.326, Florida Statutes, is amended to read:

331.326 Information relating to trade secrets confidential.—The records of Space Florida regarding matters encompassed by this act are public records subject to the ~~provisions of~~ chapter 119. Any information held by Space Florida which is a trade secret, as defined in s. 812.081, including trade secrets of Space Florida, any spaceport user, or the space industry business, is confidential and exempt from the ~~provisions of~~ s. 119.07(1) and s. 24(a), Art. I of the State Constitution and may not be disclosed. If Space Florida determines that any information requested by the public will reveal a trade secret, it shall, in writing, inform the person making the request of that determination. The determination is a final order as defined in s. 120.52. Any meeting or portion of a meeting of Space Florida's board is exempt from the ~~provisions of~~ s. 286.011 and s. 24(b), Art. I of the State Constitution when the board is discussing trade secrets. Any public record generated during the closed portions of the meetings, such as minutes, tape recordings, and notes, is confidential and exempt from the ~~provisions of~~ s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This section is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2021, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 5. Section 365.174, Florida Statutes, is amended to read:

365.174 Proprietary confidential business information.—

(1)(a) All proprietary confidential business information submitted by a provider to the board or the office is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(b) Statistical abstracts of information collected by the board or the office may be released or published, but only in a manner that does not identify or

allow identification of subscribers or their service numbers or of revenues attributable to any provider.

(2)(a) All proprietary confidential business information submitted by a provider to the Department of Revenue, as an agent of the board, is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(b) The Department of Revenue may provide information relative to s. 365.172(9) to the Secretary of Management Services, or his or her authorized agent, or to the E911 Board established in s. 365.172(5) for use in the conduct of the official business of the Department of Management Services or the E911 Board.

~~(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.~~

(3) As used in this section, the term “proprietary confidential business information” means customer lists, customer numbers, individual or aggregate customer data by location, usage and capacity data, network facilities used to serve subscribers, technology descriptions, technical information, or trade secrets, including trade secrets as defined in s. 812.081, and the actual or developmental costs of E911 systems that are developed, produced, or received internally by a provider or by a provider’s employees, directors, officers, or agents.

(4) This section is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2021, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 6. Section 381.83, Florida Statutes, is amended to read:

381.83 Trade secrets; confidentiality.—

(1) Records, reports, or information obtained from any person under this chapter, unless otherwise provided by law, must ~~shall~~ be available to the public, except upon a showing satisfactory to the department by the person from whom the records, reports, or information is obtained that such records, reports, or information, or a particular part thereof, contains trade secrets as defined in s. 812.081 ~~812.081(1)(e)~~. Such trade secrets are ~~shall be~~ confidential and ~~are~~ exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution. The person submitting such trade secret information to the department must request that it be kept confidential and must inform the department of the basis for the claim of trade secret. The department shall, subject to notice and opportunity for hearing, determine whether the information, or portions thereof, claimed to be a trade secret is or is not a trade secret. Such trade secrets may be

disclosed, however, to authorized representatives of the department or, pursuant to request, to other governmental entities in order for them to properly perform their duties, or when relevant in any proceeding under this chapter. Authorized representatives and other governmental entities receiving such trade secret information shall retain its confidentiality. Those involved in any proceeding under this chapter, including a hearing officer or judge or justice, shall retain the confidentiality of any trade secret information revealed at such proceeding.

(2) This section is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2021, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 7. Subsection (2) and paragraph (b) of subsection (3) of section 403.7046, Florida Statutes, are amended to read:

403.7046 Regulation of recovered materials.—

(2) Information reported pursuant to the requirements of this section or any rule adopted pursuant to this section which, if disclosed, would reveal a trade secret, as defined in s. ~~812.081~~ 812.081(1)(e), is confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution. For reporting or information purposes, however, the department may provide this information in such form that the names of the persons reporting such information and the specific information reported are not revealed. This subsection is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2021, unless reviewed and saved from repeal through reenactment by the Legislature.

(3) Except as otherwise provided in this section or pursuant to a special act in effect on or before January 1, 1993, a local government may not require a commercial establishment that generates source-separated recovered materials to sell or otherwise convey its recovered materials to the local government or to a facility designated by the local government, nor may the local government restrict such a generator's right to sell or otherwise convey such recovered materials to any properly certified recovered materials dealer who has satisfied the requirements of this section. A local government may not enact any ordinance that prevents such a dealer from entering into a contract with a commercial establishment to purchase, collect, transport, process, or receive source-separated recovered materials.

(b)1. Before engaging in business within the jurisdiction of the local government, a recovered materials dealer must provide the local government with a copy of the certification provided for in this section. In addition, the local government may establish a registration process whereby a recovered materials dealer must register with the local government before engaging in business within the jurisdiction of the local government. Such registration process is limited to requiring the dealer to register its name,

including the owner or operator of the dealer, and, if the dealer is a business entity, its general or limited partners, its corporate officers and directors, its permanent place of business, evidence of its certification under this section, and a certification that the recovered materials will be processed at a recovered materials processing facility satisfying the requirements of this section. The local government may not use the information provided in the registration application to compete unfairly with the recovered materials dealer until 90 days after receipt of the application. All counties, and municipalities whose population exceeds 35,000 according to the population estimates determined pursuant to s. 186.901, may establish a reporting process that ~~must which shall~~ be limited to the regulations, reporting format, and reporting frequency established by the department pursuant to this section, which ~~must shall~~, at a minimum, include requiring the dealer to identify the types and approximate amount of recovered materials collected, recycled, or reused during the reporting period; the approximate percentage of recovered materials reused, stored, or delivered to a recovered materials processing facility or disposed of in a solid waste disposal facility; and the locations where any recovered materials were disposed of as solid waste. ~~Information reported under this subsection which, if disclosed, would reveal a trade secret, as defined in s. 812.081(1)(e), is confidential and exempt from the provisions of s. 24(a), Art. I of the State Constitution and s. 119.07(1).~~ The local government may charge the dealer a registration fee commensurate with and no greater than the cost incurred by the local government in operating its registration program. Registration program costs are limited to those costs associated with the activities described in this ~~subparagraph~~ paragraph. Any reporting or registration process established by a local government with regard to recovered materials ~~is shall~~ be governed by the ~~provisions of~~ this section and department rules adopted pursuant thereto.

2. Information reported under this subsection which, if disclosed, would reveal a trade secret, as defined in s. 812.081, is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This subparagraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2021, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 8. Section 403.73, Florida Statutes, is amended to read:

403.73 Trade secrets; confidentiality.—

(1) Records, reports, or information obtained from any person under this part, unless otherwise provided by law, ~~must shall~~ be available to the public, except upon a showing satisfactory to the department by the person from whom the records, reports, or information is obtained that such records, reports, or information, or a particular part thereof, contains trade secrets as defined in s. ~~812.081~~ 812.081(1)(e). Such trade secrets ~~are shall~~ be confidential and are exempt from the ~~provisions of~~ s. 119.07(1) and s. 24(a), Art. I of the State Constitution. The person submitting such trade secret information to the department must request that it be kept

confidential and must inform the department of the basis for the claim of trade secret. The department shall, subject to notice and opportunity for hearing, determine whether the information, or portions thereof, claimed to be a trade secret is or is not a trade secret. Such trade secrets may be disclosed, however, to authorized representatives of the department or, pursuant to request, to other governmental entities in order for them to properly perform their duties, or when relevant in any proceeding under this part. Authorized representatives and other governmental entities receiving such trade secret information shall retain its confidentiality. Those involved in any proceeding under this part, including an administrative law judge, a hearing officer, or a judge or justice, shall retain the confidentiality of any trade secret information revealed at such proceeding.

(2) This section is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2021, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 9. Paragraphs (g) and (m) of subsection (8) of section 499.012, Florida Statutes, are amended to read:

499.012 Permit application requirements.—

(8) An application for a permit or to renew a permit for a prescription drug wholesale distributor or an out-of-state prescription drug wholesale distributor submitted to the department must include:

(g)1. For an application for a new permit, the estimated annual dollar volume of prescription drug sales of the applicant, the estimated annual percentage of the applicant's total company sales that are prescription drugs, the applicant's estimated annual total dollar volume of purchases of prescription drugs, and the applicant's estimated annual total dollar volume of prescription drug purchases directly from manufacturers.

2. For an application to renew a permit, the total dollar volume of prescription drug sales in the previous year, the total dollar volume of prescription drug sales made in the previous 6 months, the percentage of total company sales that were prescription drugs in the previous year, the total dollar volume of purchases of prescription drugs in the previous year, and the total dollar volume of prescription drug purchases directly from manufacturers in the previous year.

3. Such portions of the information required pursuant to this paragraph which are a trade secret, as defined in s. 812.081, shall be maintained by the department as trade secret information is required to be maintained under s. 499.051. This subparagraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2021, unless reviewed and saved from repeal through reenactment by the Legislature.

(m) For an applicant that is a secondary wholesale distributor, each of the following:

1. A personal background information statement containing the background information and fingerprints required pursuant to subsection (9) for each person named in the applicant's response to paragraphs (k) and (l) and for each affiliated party of the applicant.

2. If any of the five largest shareholders of the corporation seeking the permit is a corporation, the name, address, and title of each corporate officer and director of each such corporation; the name and address of such corporation; the name of such corporation's resident agent, such corporation's resident agent's address, and such corporation's state of its incorporation; and the name and address of each shareholder of such corporation who ~~that~~ owns 5 percent or more of the stock of such corporation.

3.a. The name and address of all financial institutions in which the applicant has an account ~~that~~ which is used to pay for the operation of the establishment or to pay for drugs purchased for the establishment, together with the names of all persons who ~~that~~ are authorized signatories on such accounts.

b. The portions of the information required pursuant to this subparagraph which are a trade secret, as defined in s. 812.081, shall be maintained by the department as trade secret information is required to be maintained under s. 499.051. This sub-subparagraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2021, unless reviewed and saved from repeal through reenactment by the Legislature.

4. The sources of all funds and the amounts of such funds used to purchase or finance purchases of prescription drugs or to finance the premises on which the establishment is to be located.

5. If any of the funds identified in subparagraph 4. were borrowed, copies of all promissory notes or loans used to obtain such funds.

Section 10. Subsection (7) of section 499.0121, Florida Statutes, is amended to read:

499.0121 Storage and handling of prescription drugs; recordkeeping.—The department shall adopt rules to implement this section as necessary to protect the public health, safety, and welfare. Such rules shall include, but not be limited to, requirements for the storage and handling of prescription drugs and for the establishment and maintenance of prescription drug distribution records.

(7) PRESCRIPTION DRUG PURCHASE LIST.—

(a) Each wholesale distributor, except for a manufacturer, shall annually provide the department with a written list of all wholesale distributors and

manufacturers from whom the wholesale distributor purchases prescription drugs. A wholesale distributor, except a manufacturer, shall notify the department not later than 10 days after any change to either list.

(b) Such portions of the information required pursuant to this subsection which are a trade secret, as defined in s. 812.081, shall be maintained by the department as trade secret information is required to be maintained under s. 499.051. This paragraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2021, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 11. Subsection (7) of section 499.051, Florida Statutes, is amended to read:

499.051 Inspections and investigations.—

(7)(a) The complaint and all information obtained pursuant to the investigation by the department are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution until the investigation and the enforcement action are completed.

(b) Information that constitutes a ~~However, trade secret, as defined in s. 812.081, contained in the complaint or obtained by the department pursuant to the investigation must information contained therein as defined by s. 812.081(1)(e)~~ shall remain confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution, as long as the information is held by retained by the department. This paragraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2021, unless reviewed and saved from repeal through reenactment by the Legislature.

(c) This subsection does not prohibit the department from using such information for regulatory or enforcement proceedings under this chapter or from providing such information to any law enforcement agency or any other regulatory agency. However, the receiving agency shall keep such records confidential and exempt as provided in this subsection. In addition, this subsection is not intended to prevent compliance with ~~the provisions of s. 499.01212, and the pedigree papers required in that section are~~ shall not be deemed a trade secret.

Section 12. Section 499.931, Florida Statutes, is amended to read:

499.931 Trade secret information.—Information required to be submitted under this part which is a trade secret as defined in s. ~~812.081~~ 812.081(1)(e) and designated as a trade secret by an applicant or permitholder must be maintained as required under s. 499.051. This section is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2021, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 13. Section 502.222, Florida Statutes, is amended to read:

502.222 Information relating to trade secrets confidential.—The records of the department regarding matters encompassed by this chapter are public records, subject to the provisions of chapter 119, except that any information that ~~which~~ would reveal a trade secret, as defined in s. 812.081, of a dairy industry business is confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution. If the department determines that any information requested by the public will reveal a trade secret, it shall, in writing, inform the person making the request of that determination. The determination is a final order as defined in s. 120.52. This section is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2021, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 14. Subsection (3) of section 570.48, Florida Statutes, is amended to read:

570.48 Division of Fruit and Vegetables; powers and duties; records.—The duties of the Division of Fruit and Vegetables include, but are not limited to:

(3) Maintaining the records of the division. The records of the division are public records; however, trade secrets as defined in s. 812.081 are confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This subsection is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2021, unless reviewed and saved from repeal through reenactment by the Legislature. This section may shall not be construed to prohibit:

- (a) A disclosure necessary to enforcement procedures.
- (b) The department from releasing information to other governmental agencies. Other governmental agencies that receive confidential information from the department under this subsection shall maintain the confidentiality of that information.
- (c) The department or other agencies from compiling and publishing appropriate data regarding procedures, yield, recovery, quality, and related matters, provided such released data do not reveal by whom the activity to which the data relate was conducted.

Section 15. Subsection (2) of section 573.123, Florida Statutes, is amended to read:

573.123 Maintenance and production of records.—

(2) Information that, if disclosed, would reveal a trade secret, as defined in s. 812.081, of any person subject to a marketing order is confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State

Constitution and may shall not be disclosed except to an attorney who provides legal advice to the division about enforcing a marketing market order or by court order. A person who receives confidential information under this subsection shall maintain the confidentiality of that information. This subsection is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2021, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 16. Subsection (8) of section 601.10, Florida Statutes, is amended to read:

601.10 Powers of the Department of Citrus.—The department shall have and shall exercise such general and specific powers as are delegated to it by this chapter and other statutes of the state, which powers shall include, but are not limited to, the following:

(8)(a) To prepare and disseminate information of importance to citrus growers, handlers, shippers, processors, and industry-related and interested persons and organizations relating to department activities and the production, handling, shipping, processing, and marketing of citrus fruit and processed citrus products. ~~Any information that constitutes a trade secret as defined in s. 812.081(1)(c) is confidential and exempt from s. 119.07(1) and shall not be disclosed.~~ For referendum and other notice and informational purposes, the department may prepare and maintain, from the best available sources, a citrus grower mailing list. Such list shall be a public record available as other public records; but is it shall not be subject to the purging provisions of s. 283.55.

(b) Any information provided to the department which constitutes a trade secret as defined in s. 812.081 is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This paragraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2021, unless reviewed and saved from repeal through reenactment by the Legislature.

~~(c)(b)~~ Any nonpublished reports or data related to studies or research conducted, caused to be conducted, or funded by the department under s. 601.13 is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This paragraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2017, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 17. Paragraph (d) of subsection (7) of section 601.15, Florida Statutes, is amended to read:

601.15 Advertising campaign; methods of conducting; assessments; emergency reserve fund; citrus research.—

(7) All assessments levied and collected under this chapter shall be paid into the State Treasury on or before the 15th day of each month. Such moneys shall be accounted for in a special fund to be designated as the Florida Citrus Advertising Trust Fund, and all moneys in such fund are appropriated to the department for the following purposes:

(d)1. The pro rata portion of moneys allocated to each type of citrus product in noncommodity programs shall be used by the department to encourage substantial increases in the effectiveness, frequency, and volume of noncommodity advertising, merchandising, publicity, and sales promotion of such citrus products through rebates and incentive payments to handlers and trade customers for these activities. The department shall adopt rules providing for the use of such moneys. The rules shall establish alternate incentive programs, including at least one incentive program for product sold under advertised brands, one incentive program for product sold under private label brands, and one incentive program for product sold in bulk. For each incentive program, the rules ~~must~~ shall establish eligibility and performance requirements and ~~must~~ shall provide appropriate limitations on amounts payable to a handler or trade customer for a particular season. Such limitations may relate to the amount of citrus assessments levied and collected on the citrus product handled by such handler or trade customer during a 12-month representative period.

2. The department may require from participants in noncommodity advertising and promotional programs commercial information necessary to determine eligibility for and performance in such programs. Any information so required ~~which that~~ constitutes a “trade secret” as defined in s. 812.081 is confidential and exempt from s. 119.07(1) ~~and s. 24(a), Art. I of the State Constitution. This subparagraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2021, unless reviewed and saved from repeal through reenactment by the Legislature.~~

Section 18. Paragraph (c) of subsection (8) of section 601.152, Florida Statutes, is amended to read:

601.152 Special marketing orders.—

(8)

(c)1. Every handler shall, at such times as the department may require, file with the department a return, not under oath, on forms to be prescribed and furnished by the department, certified as true and correct, stating the quantity of the type, variety, and form of citrus fruit or citrus product specified in the marketing order first handled in the primary channels of trade in the state by such handler during the period of time specified in the marketing order. Such returns ~~must~~ shall contain any further information deemed by the department to be reasonably necessary to properly administer or enforce this section or any marketing order implemented under this section.

2. Information that, if disclosed, would reveal a trade secret, as defined in s. 812.081, of any person subject to a marketing order is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This subparagraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2021, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 19. Section 601.76, Florida Statutes, is amended to read:

601.76 Manufacturer to furnish formula and other information.—Any formula required to be filed with the Department of Agriculture shall be deemed a trade secret as defined in s. 812.081, is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution, and ~~may~~ shall ~~only~~ be divulged only to the Department of Agriculture or to its duly authorized representatives or upon court order ~~orders of a court of competent jurisdiction~~ when necessary in the enforcement of this law. A person who receives such a formula from the Department of Agriculture under this section shall maintain the confidentiality of the formula. This section is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2021, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 20. Subsections (3) and (6) of section 815.04, Florida Statutes, are amended to read:

815.04 Offenses against intellectual property; public records exemption.

(3) Data, programs, or supporting documentation that is a trade secret as defined in s. 812.081, that is held by an agency as defined in chapter 119, and that resides or exists internal or external to a computer, computer system, computer network, or electronic device is confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This subsection is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2021, unless reviewed and saved from repeal through reenactment by the Legislature.

~~(6) Subsections (3) and (4) are 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 21. The Legislature finds that it is a public necessity that financial information comprising a trade secret as defined in s. 812.081, Florida Statutes, be made exempt or confidential and exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution. The Legislature also finds that it is a public necessity that any portion of a meeting in which a trade secret as defined in s. 812.081, Florida Statutes, is discussed be made exempt from s. 286.011, Florida Statutes, and s. 24(b),

Article I of the State Constitution. The Legislature recognizes that, in many instances, businesses are required to provide financial information for regulatory or other purposes to public entities and that disclosure of such information to competitors of those businesses would be detrimental to the businesses. The Legislature's intent is to protect trade secret information of a confidential nature which includes, but is not limited to, a formula, a pattern, a device, a combination of devices, or a compilation of information used to protect or further a business advantage over those who do not know or use the information, the disclosure of which would injure the affected business in the marketplace. Therefore, the Legislature finds that the need to protect trade secret financial information is sufficiently compelling to override this state's public policy of open government and that the protection of such information cannot be accomplished without these exemptions.

Section 22. This act shall take effect on the same date that SB 180 or similar legislation relating to trade secrets takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes a law.

Approved by the Governor February 24, 2016.

Filed in Office Secretary of State February 24, 2016.