

By the Committee on Environmental Protection and
Representatives Edwards, Burroughs, Dockery and Mackey

1 A bill to be entitled
2 An act relating to public records; creating s.
3 252.943, F.S.; providing an exemption from
4 public records requirements for information
5 provided by a stationary source subject to the
6 Accidental Release Prevention Program under the
7 federal Clean Air Act; providing for future
8 review and repeal; providing a finding of
9 public necessity; providing a contingent
10 effective date.

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

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

16 252.943 Public records.--

17 (1) Whenever Section 112(r) of the federal Clean Air
18 Act authorizes a stationary source subject to Section
19 112(r)(7) to exclude trade secret information from its risk
20 management plan, the owner or operator shall furnish the
21 information so excluded to the State Hazardous Materials
22 Emergency Response Commission upon request. Such information
23 is confidential and exempt from the provisions of s.
24 119.07(1). The commission shall not disclose such information
25 except under a final determination by the Administrator of the
26 United States Environmental Protection Agency that such
27 information is not entitled to trade secret protection, or
28 pursuant to an order of court. This exemption is subject to
29 the Open Government Sunset Review Act of 1995 in accordance
30 with s. 119.15, and shall stand repealed on October 2, 2003,
31 unless reviewed and reenacted by the Legislature.

1 (2) Whenever Section 112(r) of the federal Clean Air
2 Act authorizes an owner or operator of a stationary source
3 subject to Section 112(r)(7) to elect to withhold from
4 disclosure specific information, such information is
5 confidential and exempt from the provisions of s. 119.07(1).
6 This exemption is subject to the Open Government Sunset Review
7 Act of 1995 in accordance with s. 119.15, and shall stand
8 repealed on October 2, 2003, unless reviewed and reenacted by
9 the Legislature.

10 (3) Any information that is provided to the Department
11 of Community Affairs, or its agent, in the process of
12 conducting an inspection, audit, or investigation which is
13 authorized under Section 112(r) for exemption from the
14 provisions of s. 119.07(1), is confidential and exempt from s.
15 119.07(1). This exemption is subject to the Open Government
16 Sunset Review Act of 1995 in accordance with s. 119.15, and
17 shall stand repealed on October 2, 2003, unless reviewed and
18 reenacted by the Legislature.

19 Section 2. The Legislature finds that it is a public
20 necessity that certain information provided by a stationary
21 source subject to the Accidental Release Prevention Program
22 under the federal Clean Air Act be held confidential in order
23 to protect legitimate property rights associated with trade
24 secrets while allowing state officials to review and oversee
25 risk management plans. Furthermore, the Legislature finds that
26 disclosure of trade secret information is likely to cause
27 substantial harm to the competitive position of a stationary
28 source.

29 Section 3. This act shall take effect on the same date
30 as House Bill 3717 or similar legislation takes effect, if
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1 such legislation is adopted in the same legislative session or
2 an extension thereof.
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