

By the Committee on Governmental Reform and Oversight; and
Senators Dyer, Latvala, Williams, Brown-Waite, Diaz-Balart and
Forman

302-2192-98

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

A bill to be entitled
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

1 Administrator of the Environmental Protection Agency that such
2 records, reports, or information are not entitled to trade
3 secret protection, or pursuant to an order of court. This
4 exemption is subject to the Open Government Sunset Review Act
5 in accordance with s. 119.15, and expires on October 2, 2003,
6 unless reviewed and reenacted by the Legislature.

7 (2) When the department is required to protect
8 records, reports, or information or particular parts thereof,
9 other than release or emissions data, obtained from an
10 investigation, inspection, or audit from public disclosure
11 pursuant to Sections 112(r) and 114(c) of the federal Clean
12 Air Act and authorities cited therein, based upon a showing
13 satisfactory to the Administrator of the U.S. Environmental
14 Protection Agency by any owner or operator of a stationary
15 source subject to the Accidental Release Prevention Program
16 that public release of such records, reports, or information
17 would divulge methods or processes entitled to protection as
18 trade secrets defined in 40 CFR Part II Subpart B, such
19 records, reports, or information are confidential and exempt
20 from the provisions of s. 119.07(1) and s. 24(a), Art. I of
21 the State Constitution. Such records, reports, or information
22 may not be disclosed except under a final determination by the
23 Administrator of the Environmental Protection Agency that such
24 records, reports, or information are not entitled to trade
25 secret protection, or pursuant to an order of court. This
26 exemption is subject to the Open Government Sunset Review Act
27 in accordance with s. 119.15, and expires on October 2, 2003,
28 unless reviewed and reenacted by the Legislature.

29 Section 2. The Legislature finds that it is a public
30 necessity that trade secret information provided by the owner
31 or operator of a stationary source subject to the Accidental

1 Release Prevention Program under the federal Clean Air Act be
2 held confidential and exempt in order to protect the
3 legitimate property interests associated with trade secrets
4 while allowing state officials to review and oversee Risk
5 Management Plans and conduct necessary investigations,
6 inspections, or audits. Furthermore, the Legislature finds
7 that disclosure of trade secret information is likely to cause
8 substantial harm to the competitive position of the owner or
9 operator of a stationary source.

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

14
15 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
16 COMMITTEE SUBSTITUTE FOR
17 Senate Bill 814

18 Provides that when the Department of Community Affairs is
19 required to protect records, reports, or information, other
20 than release or emissions data, contained in a risk management
21 plan disclosure because such records have been determined to
22 be trade secrets, then such records are confidential and
23 exempt from public records law requirements.

24 Provides that when the department is required to protect
25 records, reports, or information, other than release or
26 emissions data, obtained from an investigation, inspection, or
27 audit because such records are entitled to protection as
28 trade secrets, such information is confidential and exempt
29 from public records requirements.

30 Provides that it is a public necessity that trade secret
31 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 still allowing state
officials to review and oversee Risk Management Plans and
conduct necessary inspections, investigations, and audits.