

By the Committee on Agriculture and Consumer Services; and  
 Senator Geller

303-1923-02

1                                   A bill to be entitled  
 2           An act relating to exemption from public  
 3           records requirements; amending s. 500.148,  
 4           F.S.; providing an exemption from public  
 5           records requirements for records, documents, or  
 6           information relating to food-borne illness  
 7           investigations and hazard-analysis and  
 8           critical-control-point programs, and for trade  
 9           secrets and commercial or financial information  
 10          submitted to the United States Food and Drug  
 11          Administration, interagency or intraagency  
 12          memoranda or letters of the United States Food  
 13          and Drug Administration, and specified  
 14          communications between the United States Food  
 15          and Drug Administration and state and local  
 16          government officials deemed exempt from public  
 17          information requirements under federal law;  
 18          providing for future review and repeal of the  
 19          exemption; providing a statement of public  
 20          necessity; providing an effective date.

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

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 24           Section 1. Subsection (3) is added to section 500.148,  
 25 Florida Statutes, to read:

26           500.148 Reports and dissemination of information.--

27           (3) The following records, documents, or information  
 28 is confidential and exempt from the provisions of s. 119.07(1)  
 29 and s. 24(a), Art. I of the State Constitution:

30           (a) Records, documents, or information related to  
 31 food-borne illness investigations.

1           (b) Records, documents, or information related to  
2 hazard-analysis critical-control-point programs as defined in  
3 s. 580.031(12) for animal feeds, or similar hazard-analysis  
4 critical-control-point records required for processing of  
5 food.

6           (c) Trade secrets and commercial or financial  
7 information submitted to the United States Food and Drug  
8 Administration and deemed exempt from public disclosure under  
9 21 C.F.R. 20.61.

10           (d) Interagency or intraagency memoranda or letters of  
11 the United States Food and Drug Administration deemed exempt  
12 from public disclosure under 21 C.F.R. 20.62.

13           (e) Specified communications between the United States  
14 Food and Drug Administration and state and local government  
15 officials deemed exempt from public disclosure under 21 C.F.R.  
16 20.88.

17           (f) Any records, documents, information, trade  
18 secrets, commercial or financial information, memoranda,  
19 letters, or communications of the types described in  
20 paragraphs (a)-(e) deemed exempt from public disclosure under  
21 5 U.S.C. 552(b).

22  
23 This subsection is subject to the Open Government Sunset  
24 Review Act of 1995 in accordance with s. 119.15, and shall  
25 stand repealed October 2, 2007, unless reviewed and saved from  
26 repeal through reenactment by the Legislature.

27           Section 2. The Legislature finds that the exemption  
28 from the public-records law provided in section 1 of this act  
29 is a public necessity and that records, documents, or  
30 information related to food-borne illness investigations;  
31 records, documents, or information related to hazard-analysis

1 critical-control-point programs as defined in section  
2 580.03(12), Florida Statutes; and trade secrets and commercial  
3 or financial information submitted to the United States Food  
4 and Drug Administration, interagency or intraagency memoranda  
5 or letters of the United States Food and Drug Administration,  
6 and specified communications between the United States Food  
7 and Drug Administration and state and local government  
8 officials deemed exempt from public disclosure under federal  
9 law must be exempt from requirements for public disclosure  
10 under the laws of this state. The Legislature finds that these  
11 records, plans, and information are vital to protecting the  
12 health and safety of the public and are therefore exempt from  
13 public disclosure under federal law. Further, if this  
14 information were made publicly available for inspection or  
15 copying, the information could be used for purposes that could  
16 endanger the public's health. Accordingly, the Legislature  
17 finds that the harm to the public which would result from the  
18 release of such records, plans, and information substantially  
19 outweighs any minimal public benefit derived from public  
20 disclosure.

21           Section 3. This act shall take effect upon becoming a  
22 law.  
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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
COMMITTEE SUBSTITUTE FOR  
Senate Bill 2036

The committee substitute for Senate Bill 2036 differs from the bill as follows:

It expands the various sections that were described only by reference in the bill to a regulation or statute. It says specifically what records or information were exempt under the various regulations or statutes. For example, where the original bill refers to "records exempt under 21 C.F.R., part 20.61," the committee substitute replaces that language with "Trade secrets and commercial or financial information submitted to the United States Food and Drug Administration and deemed exempt from public disclosure under 21 C.F.R. 20.61."

It expands the public necessity statement.