



HB 1061

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A bill to be entitled
 An act relating to public records; amending s. 500.148,
 F.S.; providing an exemption from public records
 requirements for certain federal records that are
 otherwise confidential under federal law and that are
 provided to the Department of Agriculture and Consumer
 Services for purposes of food safety investigations,
 contracts and partnership activities, and regulatory
 reviews; prohibiting the disclosure of such information
 unless a federal agency has found that the record is no
 longer entitled to protection or unless ordered by a
 court; providing for future legislative review and repeal;
 providing a finding of public necessity; providing an
 effective date.

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

Section 1. Section 500.148, Florida Statutes, is amended
 to read:

500.148 Reports and dissemination of information;
confidentiality.--

(1) The department may publish from time to time reports
 summarizing all judgments and court orders that have been
 rendered under this chapter, including the nature of the charges
 and the disposition thereof.

(2) The department may also disseminate any information
 regarding food that it considers necessary in the interest of
 public health and the protection of the consumer against fraud.
 Nothing in this section shall be construed to prohibit the



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30 department from collecting, reporting, and illustrating the
31 results of these investigations.

32 (3) Federal records deemed confidential under 21 C.F.R.
33 part 20.61, part 20.62, or part 20.88, or U.S.C. s. 552(b), and
34 which are provided to the department for assistance during a
35 joint food safety or food illness investigation, as a
36 requirement for conducting a federal-state contract or
37 partnership activity, or for regulatory review, are confidential
38 and exempt from s. 119.07(1) and s. 24(a), Art. I of the State
39 Constitution. Such information may not be disclosed except under
40 a final determination by the appropriate federal agencies that
41 such records are no longer entitled to protection, or pursuant
42 to an order of the court. This section is subject to the Open
43 Government Sunset Review Act of 1995 in accordance with s.
44 119.15, and shall stand repealed on October 2, 2008, unless
45 reviewed and saved from repeal through reenactment by the
46 Legislature.

47 (4)-(3) Upon request of a food establishment, the
48 department may issue a report certifying that the requesting
49 food establishment currently complies with the sanitation and
50 permitting requirements of this chapter and the rules
51 promulgated thereunder. Such certification may be requested for
52 the purpose of exporting food to a foreign country. The
53 department is authorized to recover the cost associated with
54 carrying out the provisions of this subsection, the amount of
55 which shall be set by rule.

56 Section 2. The Legislature finds that it is a public
57 necessity that records and information concerning investigations
58 of food-borne illness which are otherwise confidential under
59 federal law remain confidential when shared with the Department



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60 of Agriculture and Consumer Services. It is essential that the
61 department have access to data gathered by federal agencies and
62 other states in order to conduct investigations and carry out
63 contracts and partnership agreements. The Legislature further
64 finds that federal agencies are reluctant to seek the
65 department's review on important regulatory matters if
66 information that is confidential under federal law would be
67 subject to disclosure. Therefore, the Legislature finds that the
68 harm caused by the release of such information substantially
69 outweighs any minimal public benefit derived from disclosure of
70 federal records that are otherwise confidential.

71 Section 3. This act shall take effect on the same date
72 that HB 339 or similar legislation takes effect, if such
73 legislation is adopted in the same legislative session or an
74 extension thereof and becomes law.