

By the Committee on Governmental Oversight and Productivity;
and Senators Argenziano, Bennett, Siplin and Bullard

302-2144-03

1 A bill to be entitled
2 An act relating to public records; amending s.
3 500.148, F.S.; providing an exemption from
4 public-records requirements for certain federal
5 records that are otherwise confidential under
6 federal law and that are provided to the
7 Department of Agriculture and Consumer Services
8 for purposes of food safety investigations,
9 contracts and partnership activities, and
10 regulatory reviews; prohibiting the disclosure
11 of such information unless a federal agency has
12 found that the record is no longer entitled to
13 protection or unless ordered by a court;
14 providing for future legislative review and
15 repeal; providing a finding of public
16 necessity; providing an effective date.

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

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

22 500.148 Reports and dissemination of information;
23 confidentiality.--

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

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

1 prohibit the department from collecting, reporting, and
2 illustrating the results of these investigations.

3 (3) Information deemed confidential under 21 C.F.R.
4 part 20.61, part 20.62, or part 20.88, or U.S.C. s. 552(b),
5 and which are provided to the department for assistance during
6 a joint food safety or food illness investigation, as a
7 requirement for conducting a federal-state contract or
8 partnership activity, or for regulatory review, are
9 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I
10 of the State Constitution. Such information may not be
11 disclosed except under a final determination by the
12 appropriate federal agencies that such records are no longer
13 entitled to protection, or pursuant to an order of the court.
14 This section is subject to the Open Government Sunset Review
15 Act of 1995 in accordance with s. 119.15, and shall stand
16 repealed on October 2, 2008, unless reviewed and saved from
17 repeal through reenactment by the Legislature.

18 ~~(4)~~(3) Upon request of a food establishment, the
19 department may issue a report certifying that the requesting
20 food establishment currently complies with the sanitation and
21 permitting requirements of this chapter and the rules
22 promulgated thereunder. Such certification may be requested
23 for the purpose of exporting food to a foreign country. The
24 department is authorized to recover the cost associated with
25 carrying out the provisions of this subsection, the amount of
26 which shall be set by rule.

27 Section 2. The Legislature finds that it is a public
28 necessity that information concerning investigations of food
29 safety or food-borne illness which are otherwise confidential
30 under federal law remain confidential and exempt when shared
31 with the Department of Agriculture and Consumer Services. It

1 is essential that the department have access to information
2 provided by federal and other state agencies in order to
3 conduct investigations and carry out contracts and partnership
4 agreements. The Legislature further finds that federal
5 agencies are reluctant to seek the department's review on
6 important regulatory matters if information that is
7 confidential under federal law would be subject to disclosure.
8 Therefore, the Legislature finds that the harm caused by the
9 release of such information substantially outweighs any
10 minimal public benefit derived from disclosure of federal
11 records that are otherwise confidential.

12 Section 3. This act shall take effect upon becoming a
13 law.

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15 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
16 COMMITTEE SUBSTITUTE FOR
17 SB 1230

18 Conforms the statement of public necessity and the exemption
19 so that food safety and food-borne illness are referred to in
20 both.

21 Corrects an incorrect date.

22 Clarifies that the exemption being created is confidential and
23 exempt.

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