

By the Committee on Governmental Oversight and Productivity;
and Senator Wise

302-2231-04

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A bill to be entitled
An act relating to public records; amending s.
499.012, F.S.; exempting certain personal
identifying information submitted as part of an
application as a prescription drug wholesaler
or out-of-state prescription drug wholesaler
from disclosure as a public record; providing
for future legislative review and repeal;
providing findings of public necessity;
providing an effective date.

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

Section 1. Subsection (13) is added to section
499.012, Florida Statutes, to read:

499.012 Wholesale distribution; definitions; permits;
applications; general requirements.--

(13)(a) Personal identifying information, including
fingerprints, of the following persons in an application for a
permit or an application to renew a permit for a prescription
drug wholesaler or an out-of-state prescription drug
wholesaler which is submitted to the department pursuant to
subsection (3) is exempt from s. 119.07(1) and s. 24(a), Art.
I of the State Constitution:

- 1. A manager for a prescription drug wholesale
operation establishment;
- 2. The next four highest ranking employees responsible
for prescription drug wholesale operations for an
establishment;
- 3. The designated representative; and

1 4. Each family member of the designated
2 representative, the prescription drug wholesaler's warehouse
3 manager, the next four highest ranking employees.

4 (b) If an application for a permit or an application
5 to renew a permit under this section is not approved, the
6 personal identifying information made exempt pursuant to this
7 subsection shall become public 5 years after the date of
8 application; however, personal identifying information of a
9 manager, the next four highest ranking employees, a designated
10 representative, or of their family members in an unapproved
11 application shall not become available to the public 5 years
12 after the date of application if personal identifying
13 information of that manager, highest ranking employee, or
14 designated representative is included in another approved
15 application.

16 (c) The exemption in this subsection applies to all
17 personal identifying information contained in such an
18 application held by the department before, on, or after the
19 effective date of this exemption.

20 Section 2. Subsection (13) of section 499.012, Florida
21 Statutes, is subject to the Open Government Sunset Review Act
22 of 1995 in accordance with section 119.15, Florida Statutes,
23 and shall stand repealed on October 2, 2009, unless reviewed
24 and saved from repeal through reenactment by the Legislature.

25 Section 3. The Legislature finds that it is a public
26 necessity to make exempt from public disclosure personal
27 identifying information, including fingerprints, of a
28 prescription drug wholesaler's designated representative,
29 warehouse manager, the next four highest ranking employees of
30 the warehouse who are responsible for prescription drug
31 wholesale operations, and each family member, which

1 information is contained in an application for a permit or an
2 application to renew a permit for a prescription drug
3 wholesaler or out-of-state prescription drug wholesaler which
4 is submitted pursuant to section 499.012(3), Florida Statutes.
5 The Legislature, in an attempt to ensure compliance with state
6 and federal requirements related to pharmaceuticals, has
7 established a program to regulate and oversee prescription
8 drug wholesalers. One important part of this program is the
9 identification of the prescription drug wholesaler's
10 designated representative, warehouse managers, the next four
11 highest ranking warehouse employees responsible for
12 prescription drug wholesale operations for an establishment,
13 and certain members of their families. The purpose for
14 requiring an applicant to identify these person is to ensure
15 that drug wholesaler establishments do not employ persons who
16 have engaged in illegal drug activities. By requiring the
17 identification of these employees and family members, the
18 state can provide greater oversight of drug wholesaler
19 activities. Identification of these employees and their family
20 members in an application, however, makes these persons known
21 to members of the public, including persons who could use this
22 information to commit drug-related crimes. For example, a
23 person with knowledge of the names of the manager, the next
24 four highest employees, and their family members could kidnap
25 any of these persons and force them to open the warehouse
26 where these pharmaceuticals are stored. A person with
27 knowledge of the names of the manager, the next four highest
28 employees, and their family members could kidnap any of these
29 persons and learn the identification of pharmaceutical
30 delivery vehicles and the routes of those vehicles. This could
31 result in the hijacking of these trucks and the diversion of

1 drugs from the legal channels of trade. Not only would this
2 defeat the purpose of the program, it would put at risk the
3 lives of the manager, the next four highest employees, and
4 their family members. In addition, federal Drug Enforcement
5 Administration regulation 21 C.F.R. s. 1301.71(a) states
6 "registrant shall provide effective controls and procedures to
7 guard against theft and diversion." Allowing the identity of
8 these employees and their families to be available to the
9 public would be counter to the Drug Enforcement Administration
10 requirements. Also, if family members of these employees are
11 law enforcement officers or hold other occupations for which
12 personal identifying information is exempt and confidential
13 from public records as provided in section 119.07, Florida
14 Statutes, this information will not be held to the same
15 standard when provided pursuant to section 499.012(3), Florida
16 Statutes. As a result, it is a public necessity that personal
17 identifying information of the prescription drug wholesaler's
18 designated representative, warehouse manager, the next four
19 highest prescription drug wholesaler's warehouse employees,
20 and their family members contained in an application made
21 pursuant to section 499.012(3), Florida Statutes, be made
22 exempt from the requirements of section 119.07(1), Florida
23 Statutes, and Section (24)(a) of Article I of the State
24 Constitution.

25 Section 4. This act shall take effect upon becoming a
26 law.

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1 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
2 COMMITTEE SUBSTITUTE FOR
3 Senate Bill 704
4 Creates an exemption for personal identifying information for
5 certain persons who are identified in an application for a
6 permit or permit renewal for a prescription drug wholesaler
7 under s. 499.012(3), F.S.
8 Provides for retroactive application of the exemption.
9 Terminates exemption in an application that is rejected or not
10 renewed 5 years after application date unless that information
11 is contained in another approved application.
12 Provides for sunset on October 2, 2009, unless reviewed and
13 reenacted prior to that date.
14 Contains a statement of public necessity.
15 Establishes an effective date upon becoming law.
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