Florida Senate - 2006

SB 1530

By the Committee on Regulated Industries

580-992-06

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1	A bill to be entitled
2	An act relating to a review under the Open
3	Government Sunset Review Act; amending s.
4	569.215, F.S., relating to an exemption from
5	the public-records law which is provided for
6	certain business information concerning the
7	tobacco-settlement agreement; defining the term
8	"trade secrets" for purposes of the exemption;
9	saving the exemption from repeal under the Open
10	Government Sunset Review Act; deleting
11	provisions that provide for repeal of the
12	exemption; providing an effective date.
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14	Be It Enacted by the Legislature of the State of Florida:
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16	Section 1. Section 569.215, Florida Statutes, is
17	amended to read:
18	569.215 Confidential records relating to tobacco
19	settlement agreement
20	(1) Proprietary confidential business information
21	received by the Governor, the Attorney General, or outside
22	counsel representing the State of Florida in negotiations for
23	settlement payments pursuant to the settlement agreement, as
24	amended, in the case of State of Florida et al. v. American
25	Tobacco Company et al., No. 95-1466AH, in the Circuit Court of
26	the Fifteenth Judicial Circuit, in and for Palm Beach County,
27	or received by the Chief Financial Officer or the Auditor
28	General for any purpose relating to verifying settlement
29	payments made pursuant to the settlement agreement is
30	confidential and exempt from the provisions of s. 119.07(1)
31	and s. 24(a) of Art. I of the State Constitution. Any state or
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1 federal agency that is authorized to have access to such 2 documents by any provision of law shall be granted such access in furtherance of such agency's statutory duties, 3 notwithstanding the provisions of this section. Proprietary 4 confidential business information received under this section 5 6 shall not retain its confidential and exempt status if that 7 information is made public, including publicizing such 8 information in a Securities and Exchange Commission filing, an annual financial statement, or other document or means. This 9 exemption is subject to the Open Government Sunset Review Act 10 of 1995 in accordance with s. 119.15, and shall stand repealed 11 12 on October 2, 2006, unless reviewed and saved from repeal through reenactment by the Legislature. 13 (2) As used in this section, the term "proprietary 14 confidential business information" means information, 15 regardless of form or characteristics, which is owned or 16 17 controlled by a tobacco company that is a signatory to the 18 settlement agreement, as amended, in the case of State of Florida et al. v. American Tobacco Company et al., No. 19 95-1466AH, in the Circuit Court of the Fifteenth Judicial 20 21 Circuit, in and for Palm Beach County, is intended to be and 22 is treated by a tobacco company as private in that the 23 disclosure of the information would cause harm to the company's business operations, and has not been disclosed 2.4 unless disclosed pursuant to a statutory provision, an order 25 26 of a court or administrative body, or private agreement that 27 provides that the information will not be released to the 2.8 public. The term includes, but is not limited to: 29 (a) Trade secrets, as defined in s. 812.081. 30 31

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Information in a Form 10-K that is confidential 1 (b) 2 pursuant to an order of the Division of Corporation Finance of the Securities and Exchange Commission. 3 (c) Internal auditing control policies and procedures 4 and reports of internal auditors. 5 б (d) Financial operating and marketing information 7 prepared in the ordinary course of business, the disclosure of 8 which could impair the competitive business of the provider of information. 9 10 (e) Financial statements, which consist of balance sheets, statements of income and cash flows, and notes related 11 12 thereto, of any subsidiary that is part of a consolidated 13 group and engaged in the production or sale of tobacco products. 14 (f) Report letters from independent auditors relating 15 to domestic operating company income. 16 17 (q) Analyses of specific items of revenue and expense 18 included in operating profit and extraordinary items. As used in this paragraph, the term "extraordinary items" consists of 19 one-time tobacco litigation settlement costs and restructuring 20 21 charges. 22 (h) Working papers, schedules, analyses, and 23 reconciliations prepared by company personnel for the purpose of clarifying the disclosures of domestic tobacco revenues and 2.4 operating profit contained in financial statements or other 25 information related to the sale or production of tobacco 26 27 products. 28 Section 2. This act shall take effect October 1, 2006. 29 30 31

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SENATE SUMMARY Removes provisions repealing an exemption from public-records requirements which is provided for certa: business information concerning the tobacco-settlement agreement, and which repeal is scheduled to occur on October 2, 2006, under the Open Government Sunset Review Act.	
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