

By the Committees on Governmental Oversight and Productivity;
and Regulated Industries

585-2178-06

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

1 federal agency that is authorized to have access to such
2 documents by any provision of law shall be granted such access
3 in furtherance of such agency's statutory duties,
4 notwithstanding the provisions of this section. Proprietary
5 confidential business information received under this section
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
9 annual financial statement, or other document or means. ~~This~~
10 ~~exemption is subject to the Open Government Sunset Review Act~~
11 ~~of 1995 in accordance with s. 119.15, and shall stand repealed~~
12 ~~on October 2, 2006, unless reviewed and saved from repeal~~
13 ~~through reenactment by the Legislature.~~

14 (2) As used in this section, the term "proprietary
15 confidential business information" means information,
16 regardless of form or characteristics, which is owned or
17 controlled by a tobacco company that is a signatory to the
18 settlement agreement, as amended, in the case of State of
19 Florida et al. v. American Tobacco Company et al., No.
20 95-1466AH, in the Circuit Court of the Fifteenth Judicial
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
24 company's business operations, and has not been disclosed
25 unless disclosed pursuant to a statutory provision, an order
26 of a court or administrative body, or private agreement that
27 provides that the information will not be released to the
28 public. The term includes, but is not limited to:

29 (a) Trade secrets, as defined in s. 688.002.
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1 (b) Information in a Form 10-K that is confidential
2 pursuant to an order of the Division of Corporation Finance of
3 the Securities and Exchange Commission.

4 (c) Internal auditing control policies and procedures
5 and reports of internal auditors.

6 (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
9 information.

10 (e) Financial statements, which consist of balance
11 sheets, statements of income and cash flows, and notes related
12 thereto, of any subsidiary that is part of a consolidated
13 group and engaged in the production or sale of tobacco
14 products.

15 (f) Report letters from independent auditors relating
16 to domestic operating company income.

17 (g) Analyses of specific items of revenue and expense
18 included in operating profit and extraordinary items. As used
19 in this paragraph, the term "extraordinary items" consists of
20 one-time tobacco litigation settlement costs and restructuring
21 charges.

22 (h) Working papers, schedules, analyses, and
23 reconciliations prepared by company personnel for the purpose
24 of clarifying the disclosures of domestic tobacco revenues and
25 operating profit contained in financial statements or other
26 information related to the sale or production of tobacco
27 products.

28 Section 2. This act shall take effect October 1, 2006.
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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
Senate Bill 1530

Changes the reference to trade secrets as defined in s.
812.081, F.S., to the definition of trade secrets in s.
688.002, F.S.