

1 A bill to be entitled
 2 An act relating to self-critical analysis; creating s.
 3 90.4075, F.S.; defining "self-critical analysis";
 4 providing that a report or other item created principally
 5 for the purpose of self-critical analysis and the
 6 promotion of safety is confidential and may not be
 7 discovered or admitted into evidence if it meets specified
 8 criteria; providing that the privilege may be waived;
 9 providing that specified actions do not constitute a
 10 waiver of privilege; providing that this privilege does
 11 not prevent a plaintiff from proving culpable conduct by
 12 other independent evidence or sources, even if they are
 13 mentioned or included in a self-critical analysis;
 14 providing an effective date.

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

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 18 Section 1. Section 90.4075, Florida Statutes, is created
 19 to read:

20 90.4075 Self-critical analysis.--

21 (1) As used in this section, the term "self-critical
 22 analysis" means any investigation, inquiry, review, evaluation,
 23 or other means by which a person or an organization seeks to
 24 determine, calculate, predict, estimate, evaluate, or report the
 25 safety or health effects of the use of any of its products,
 26 systems, services, or processes. The term includes an analysis
 27 or review by a component manufacturer of the safety and health
 28 effects of component parts in end products. A self-critical

29 analysis may be conducted by employees of the person or
30 organization or by consultants engaged specifically to perform
31 the analysis or review.

32 (2) A book, document, report, or other tangible thing that
33 a person or an organization creates principally for the purpose
34 of self-critical analysis and the promotion of safety is
35 confidential and may not be discovered or admitted into evidence
36 if all of the following apply:

37 (a) It results from a self-critical analysis.

38 (b) It is created with the expectation that it will be
39 kept confidential.

40 (c) It remains confidential.

41 (d) It was not prepared with the intent to influence the
42 outcome of pending litigation.

43 (3) A director, officer, or principal of an organization
44 that conducts a self-critical analysis, or of an organization
45 that is requested to conduct a self-critical analysis, may waive
46 the privilege of self-critical analysis. The privilege shall not
47 be waived by a disclosure made:

48 (a) To a governmental agency.

49 (b) Of a document that summarizes the findings and
50 conclusions of the self-critical analysis.

51 (c) By a former employee of the organization that conducts
52 a self-critical analysis or of an organization that is requested
53 to conduct a self-critical analysis.

54 (d) By a person who has not been authorized to make the
55 disclosure by a director, officer, or principal of an
56 organization that conducts a self-critical analysis or of an

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57 organization that is requested to conduct a self-critical
58 analysis.

59 (e) Inadvertently or maliciously.

60 (4) This section does not prevent a plaintiff from proving
61 culpable conduct by other independent evidence or sources, even
62 if such evidence or sources are mentioned or included in a
63 defendant's self-critical analysis.

64 Section 2. This act shall take effect July 1, 2009.