

1 A bill to be entitled
 2 An act relating to public records; amending s. 377.45,
 3 F.S.; providing an exemption from public records
 4 requirements for trade secrets contained within
 5 information relating to high-pressure well
 6 stimulations obtained by the Department of
 7 Environmental Protection in connection with the
 8 department's online high-pressure well stimulation
 9 chemical disclosure registry; providing procedures and
 10 requirements with respect to the granting of
 11 confidential and exempt status; providing for
 12 disclosure under specified circumstances; providing
 13 for future legislative review and repeal of the
 14 exemption under the Open Government Sunset Review Act;
 15 providing a statement of public necessity; providing a
 16 contingent 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. Subsection (4) of section 377.45, Florida
 21 Statutes, as created by HB 1205, 2015 Regular Session, is
 22 renumbered as subsection (5), and a new subsection (4) is added
 23 to that section to read:

24 377.45 High-pressure well stimulation chemical disclosure
 25 registry.—

26 (4) (a) Trade secrets, as defined in s. 812.081(1)(c),

27 relating to high-pressure well stimulations held by the
28 department in connection with the online high-pressure well
29 stimulation chemical disclosure registry, are confidential and
30 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
31 Constitution if the person submitting such trade secret to the
32 department:

33 1. Requests that the trade secret be kept confidential and
34 exempt;

35 2. Informs the department of the basis for the claim of
36 the trade secret; and

37 3. Clearly marks each page of a document or specific
38 portion of a document containing information claimed to be a
39 trade secret as "trade secret."

40 (b) If the department receives a public records request
41 for a document that is marked trade secret under this section,
42 the department must promptly notify the person who submitted the
43 information as a trade secret. The notice must inform such
44 person that the person has 30 days following receipt of such
45 notice to file an action in circuit court seeking a
46 determination whether the document in question contains trade
47 secrets and an order barring public disclosure of the document.
48 If the person files an action within 30 days after receipt of
49 notice of the public records request, the department may not
50 release the documents pending the outcome of the legal action.
51 The failure to file an action within 30 days constitutes a
52 waiver of any claim of confidentiality, and the department shall

53 release the document as requested.

54 (c) Confidential and exempt trade secrets may be
55 disclosed:

56 1. To another governmental entity in order for such entity
57 to properly perform its statutory duties and responsibilities;
58 or

59 2. When relevant in any proceeding under this part. Those
60 involved in any proceeding under this section, including, but
61 not limited to, an administrative law judge, a hearing officer,
62 or a judge or justice, must maintain the confidentiality of any
63 trade secret information revealed at such proceeding.

64 (d) This subsection is subject to the Open Government
65 Sunset Review Act in accordance with s. 119.15 and shall stand
66 repealed on October 2, 2020, unless reviewed and saved from
67 repeal through reenactment by the Legislature.

68 Section 2. The Legislature finds that it is a public
69 necessity that trade secrets, as defined in s. 812.081(1)(c),
70 Florida Statutes, relating to high-pressure well stimulations
71 held by the Department of Environmental Protection in connection
72 with the online high-pressure well stimulation chemical
73 disclosure registry be made confidential and exempt from s.
74 119.07(1), Florida Statutes, and s. 24(a), Article I of the
75 State Constitution. Trade secrets must be held confidential and
76 exempt from public records requirements because the disclosure
77 of such information would create an unfair competitive advantage
78 for persons receiving such information, which would adversely

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79 impact the service company, chemical supplier, or well owner or
80 operator that provides chemical ingredients for a well or wells
81 on which high-pressure well stimulations are performed. If such
82 confidential and exempt information regarding trade secrets were
83 released pursuant to a public records request, others would be
84 allowed to take the benefit of the trade secrets without
85 compensation or reimbursement to the service company, chemical
86 supplier, or well owner or operator.

87 Section 3. This act shall take effect on the same date
88 that HB 1205 or similar legislation takes effect, if such
89 legislation is adopted in the same legislative session or an
90 extension thereof and becomes law.