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LEGISLATIVE ACTION

| Senate | . | House |
|------------|---|-------|
| Comm: RCS | . | |
| 04/07/2015 | . | |
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| | . | |

The Committee on Governmental Oversight and Accountability
(Hays) recommended the following:

Senate Amendment (with title amendment)

Delete lines 423 - 628

and insert:

Section 12. Section 499.931, Florida Statutes, is amended
to read:

499.931 Trade secret information.—Information required to
be submitted under this part which is a trade secret as defined
in s. 812.081(1)(c) and designated as a trade secret by an
applicant or permitholder must be maintained as required under



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11 s. 499.051. This section is subject to the Open Government
12 Sunset Review Act in accordance with s. 119.15 and shall stand
13 repealed on October 2, 2020, unless reviewed and saved from
14 repeal through reenactment by the Legislature.

15 Section 13. Section 502.222, Florida Statutes, is amended
16 to read:

17 502.222 Information relating to trade secrets
18 confidential.—The records of the department regarding matters
19 encompassed by this chapter are public records, subject to ~~the~~
20 ~~provisions of~~ chapter 119, except that any information that
21 ~~which~~ would reveal a trade secret, as defined in s. 812.081, of
22 a dairy industry business is confidential and exempt from ~~the~~
23 ~~provisions of~~ s. 119.07(1) and s. 24(a), Art. I of the State
24 Constitution. If the department determines that any information
25 requested by the public will reveal a trade secret, it shall, in
26 writing, inform the person making the request of that
27 determination. The determination is a final order as defined in
28 s. 120.52. This section is subject to the Open Government Sunset
29 Review Act in accordance with s. 119.15 and shall stand repealed
30 on October 2, 2020, unless reviewed and saved from repeal
31 through reenactment by the Legislature.

32 Section 14. Subsection (3) of section 570.48, Florida
33 Statutes, is amended to read:

34 570.48 Division of Fruit and Vegetables; powers and duties;
35 records.—The duties of the Division of Fruit and Vegetables
36 include, but are not limited to:

37 (3) Maintaining the records of the division. The records of
38 the division are public records; however, trade secrets as
39 defined in s. 812.081 are confidential and exempt from ~~the~~



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40 ~~provisions of s. 119.07(1) and s. 24(a), Art. I of the State~~
41 Constitution. This subsection is subject to the Open Government
42 Sunset Review Act in accordance with s. 119.15 and shall stand
43 repealed on October 2, 2020, unless reviewed and saved from
44 repeal through reenactment by the Legislature. This section may
45 ~~shall~~ not be construed to prohibit:

46 (a) A disclosure necessary to enforcement procedures.

47 (b) The department from releasing information to other
48 governmental agencies. Other governmental agencies that receive
49 confidential information from the department under this
50 subsection shall maintain the confidentiality of that
51 information.

52 (c) The department or other agencies from compiling and
53 publishing appropriate data regarding procedures, yield,
54 recovery, quality, and related matters, provided such released
55 data do not reveal by whom the activity to which the data relate
56 was conducted.

57 Section 15. Subsection (2) of section 573.123, Florida
58 Statutes, is amended to read:

59 573.123 Maintenance and production of records.—

60 (2) Information that, if disclosed, would reveal a trade
61 secret, as defined in s. 812.081, of any person subject to a
62 marketing order is confidential and exempt from ~~the provisions~~
63 ~~of s. 119.07(1) and s. 24(a), Art. I of the State Constitution~~
64 and may shall not be disclosed except to an attorney who
65 provides legal advice to the division about enforcing a market
66 order or by court order. A person who receives confidential
67 information under this subsection shall maintain the
68 confidentiality of that information. This subsection is subject



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69 to the Open Government Sunset Review Act in accordance with s.
70 119.15 and shall stand repealed on October 2, 2020, unless
71 reviewed and saved from repeal through reenactment by the
72 Legislature.

73 Section 16. Subsection (8) of section 601.10, Florida
74 Statutes, is amended to read:

75 601.10 Powers of the Department of Citrus.—The department
76 shall have and shall exercise such general and specific powers
77 as are delegated to it by this chapter and other statutes of the
78 state, which powers shall include, but are not limited to, the
79 following:

80 (8) (a) To prepare and disseminate information of importance
81 to citrus growers, handlers, shippers, processors, and industry-
82 related and interested persons and organizations relating to
83 department activities and the production, handling, shipping,
84 processing, and marketing of citrus fruit and processed citrus
85 products. ~~Any information that constitutes a trade secret as~~
86 ~~defined in s. 812.081(1)(c) is confidential and exempt from s.~~
87 ~~119.07(1) and shall not be disclosed.~~ For referendum and other
88 notice and informational purposes, the department may prepare
89 and maintain, from the best available sources, a citrus grower
90 mailing list. Such list shall be a public record available as
91 other public records, but is not ~~it shall not be~~ subject to the
92 purging provisions of s. 283.55.

93 (b) Any information provided to the department which
94 constitutes a trade secret, as defined in s. 812.081, is
95 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I
96 of the State Constitution. This paragraph is subject to the Open
97 Government Sunset Review Act in accordance with s. 119.15 and



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98 shall stand repealed on October 2, 2020, unless reviewed and
99 saved from repeal through reenactment by the Legislature.

100 (c) ~~(b)~~ Any nonpublished reports or data related to studies
101 or research conducted, caused to be conducted, or funded by the
102 department under s. 601.13 is confidential and exempt from s.
103 119.07(1) and s. 24(a), Art. I of the State Constitution. This
104 paragraph is subject to the Open Government Sunset Review Act in
105 accordance with s. 119.15 and shall stand repealed on October 2,
106 2017, unless reviewed and saved from repeal through reenactment
107 by the Legislature.

108 Section 17. Paragraph (d) of subsection (7) of section
109 601.15, Florida Statutes, is amended to read:

110 601.15 Advertising campaign; methods of conducting;
111 assessments; emergency reserve fund; citrus research.—

112 (7) All assessments levied and collected under this chapter
113 shall be paid into the State Treasury on or before the 15th day
114 of each month. Such moneys shall be accounted for in a special
115 fund to be designated as the Florida Citrus Advertising Trust
116 Fund, and all moneys in such fund are appropriated to the
117 department for the following purposes:

118 (d)1. The pro rata portion of moneys allocated to each type
119 of citrus product in noncommodity programs shall be used by the
120 department to encourage substantial increases in the
121 effectiveness, frequency, and volume of noncommodity
122 advertising, merchandising, publicity, and sales promotion of
123 such citrus products through rebates and incentive payments to
124 handlers and trade customers for these activities. The
125 department shall adopt rules providing for the use of such
126 moneys. The rules shall establish alternate incentive programs,



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127 including at least one incentive program for product sold under
128 advertised brands, one incentive program for product sold under
129 private label brands, and one incentive program for product sold
130 in bulk. For each incentive program, the rules shall establish
131 eligibility and performance requirements and shall provide
132 appropriate limitations on amounts payable to a handler or trade
133 customer for a particular season. Such limitations may relate to
134 the amount of citrus assessments levied and collected on the
135 citrus product handled by such handler or trade customer during
136 a 12-month representative period.

137 2. The department may require from participants in
138 noncommodity advertising and promotional programs commercial
139 information necessary to determine eligibility for and
140 performance in such programs. Any information ~~so~~ required which
141 ~~that~~ constitutes a "trade secret," as defined in s. 812.081, is
142 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I
143 of the State Constitution. This subparagraph is subject to the
144 Open Government Sunset Review Act in accordance with s. 119.15
145 and shall stand repealed on October 2, 2020, unless reviewed and
146 saved from repeal through reenactment by the Legislature.

147 Section 18. Paragraph (c) of subsection (8) of section
148 601.152, Florida Statutes, is amended to read:

149 601.152 Special marketing orders.-

150 (8)

151 (c)1. Every handler shall, at such times as the department
152 may require, file with the department a return, not under oath,
153 on forms to be prescribed and furnished by the department,
154 certified as true and correct, stating the quantity of the type,
155 variety, and form of citrus fruit or citrus product specified in



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156 the marketing order first handled in the primary channels of
157 trade in the state by such handler during the period of time
158 specified in the marketing order. Such returns shall contain any
159 further information deemed by the department to be reasonably
160 necessary to properly administer or enforce this section or any
161 marketing order implemented under this section.

162 2. Information that, if disclosed, would reveal a trade
163 secret, as defined in s. 812.081, of any person subject to a
164 marketing order is confidential and exempt from s. 119.07(1) and
165 s. 24(a), Art. I of the State Constitution. This subparagraph is
166 subject to the Open Government Sunset Review Act in accordance
167 with s. 119.15 and shall stand repealed on October 2, 2020,
168 unless reviewed and saved from repeal through reenactment by the
169 Legislature.

170 Section 19. Section 601.76, Florida Statutes, is amended to
171 read:

172 601.76 Manufacturer to furnish formula and other
173 information.—Any formula required to be filed with the
174 Department of Agriculture shall be deemed a trade secret as
175 defined in s. 812.081, is confidential and exempt from s.
176 119.07(1) and s. 24(a), Art. I of the State Constitution, and
177 shall ~~only~~ be divulged only to the Department of Agriculture or
178 to its duly authorized representatives or upon court order
179 ~~orders of a court of competent jurisdiction~~ when necessary in
180 the enforcement of this law. A person who receives such a
181 formula from the Department of Agriculture under this section
182 shall maintain the confidentiality of the formula. This section
183 is subject to the Open Government Sunset Review Act in
184 accordance with s. 119.15 and shall stand repealed on October 2,



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185 2020, unless reviewed and saved from repeal through reenactment
186 by the Legislature.

187 Section 20. Subsections (3) and (6) of section 815.04,
188 Florida Statutes, are amended to read:

189 815.04 Offenses against intellectual property; public
190 records exemption.—

191 (3) Data, programs, or supporting documentation that is a
192 trade secret as defined in s. 812.081, that is held by an agency
193 as defined in chapter 119, and that resides or exists internal
194 or external to a computer, computer system, computer network, or
195 electronic device is confidential and exempt from ~~the provisions~~
196 ~~of~~ s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

197 (6) Subsection ~~Subsections (3) and (4) is are~~ subject to
198 the Open Government Sunset Review Act in accordance with s.
199 119.15, and shall stand repealed on October 2, 2019, unless
200 reviewed and saved from repeal through reenactment by the
201 Legislature. Subsection (3) is subject to the Open Government
202 Sunset Review Act in accordance with s. 119.15, and shall stand
203 repealed on October 2, 2020, unless reviewed and saved from
204 repeal through reenactment by the Legislature.

205 Section 21. The Legislature finds that it is a public
206 necessity that financial information comprising a trade secret
207 as defined in s. 812.081, Florida Statutes, be made exempt or
208 confidential and exempt from s. 119.07(1), Florida Statutes, and
209 s. 24(a), Article I of the State Constitution. The Legislature
210 also finds that it is a public necessity that any portion of a
211 meeting in which a trade secret, as defined in s. 812.081,
212 Florida Statutes, is discussed be made exempt from s. 286.011,
213 Florida Statutes and s. 24(b), Article I of the State



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214 Constitution. The Legislature recognizes that in many instances,
215 businesses are required to provide financial information for
216 regulatory or other purposes to governmental entities and that
217 disclosure of such information to competitors of those
218 businesses would be detrimental to the businesses. The
219 Legislature's intent is to protect trade secret information of a
220 confidential nature that includes, but is not limited to, a
221 formula, a pattern, a device, a combination of devices, or a
222 compilation of information used to protect or further a business
223 advantage over those who do not know or use the information, the
224 disclosure of which would injure the affected business in the
225 marketplace. Therefore, the Legislature finds that the need to
226 protect trade secret financial information is sufficiently
227 compelling to override this state's public policy of open
228 government and that the protection of such information cannot be
229 accomplished without these exemptions.

230
231 ===== T I T L E A M E N D M E N T =====

232 And the title is amended as follows:

233 Delete lines 2 - 45

234 and insert:

235 An act relating to public records and meetings;
236 amending ss. 119.071, 125.0104, 288.1226, 331.326,
237 365.174, 381.83, 403.7046, 403.73, 499.012, 499.0121,
238 499.051, 499.931, 502.222, 570.48, 573.123, 601.10,
239 601.15, 601.152, 601.76, and 815.04, F.S.; expanding
240 public records exemptions for certain data processing
241 software obtained by an agency, certain information
242 held by a county tourism promotion agency, information



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243 related to trade secrets held by the Florida Tourism
244 Industry Marketing Corporation, information related to
245 trade secrets held by Space Florida, proprietary
246 confidential business information submitted to the
247 Department of Revenue, trade secret information held
248 by the Department of Health, trade secret information
249 reported or submitted to the Department of
250 Environmental Protection, trade secret information in
251 an application for a permit for a prescription drug
252 wholesale distributor or an out-of-state prescription
253 drug wholesale distributor, trade secret information
254 contained in an application for a permit for a
255 secondary wholesale distributor, trade secret
256 information contained in the prescription drug
257 purchase list, trade secret information relating to
258 medical gas submitted to the Department of Business
259 and Professional Regulation, trade secret information
260 contained in a complaint and any investigatory
261 documents held by the Department of Business and
262 Professional Regulation, trade secret information of a
263 dairy industry business held by the Department of
264 Agriculture and Consumer Services, trade secret
265 information held by the Division of Fruits and
266 Vegetables of the Department of Agriculture and
267 Consumer Services, trade secret information of a
268 person subject to a marketing order held by the
269 Department of Agriculture and Consumer Services, trade
270 secret information provided to the Department of
271 Citrus, trade secret information of noncommodity



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272 advertising and promotional program participants held
273 by the Department of Citrus, trade secret information
274 contained in a citrus handler's return filed with the
275 Department of Citrus, a manufacturer's formula filed
276 with the Department of Agriculture and Consumer
277 Services, and specified data, programs, or supporting
278 documentation held by an agency, respectively, to
279 incorporate the amendment made to the definition of
280 the term "trade secret" in s. 812.081, F.S., by SB
281 564; amending s. 331.326, F.S.; expanding a public
282 meetings exemption for any meeting or portion of a
283 meeting of Space Florida's board at which trade
284 secrets are discussed to incorporate the amendment
285 made to the definition of the term "trade secret" in
286 s. 812.081, F.S., by SB 564; providing for future
287 legislative review and