

2 **ESSB 6484** - H COMM AMD
3 By Committee on Judiciary

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5 Strike everything after the enacting clause and insert the
6 following:

7 "NEW SECTION. **Sec. 1.** A new section is added to chapter 4.24 RCW
8 to read as follows:

9 The legislature finds that public health and safety is promoted
10 when the public has knowledge that enables members of the public, both
11 individuals and businesses, to make informed choices about risks to
12 their health and safety. Therefore, the legislature declares as a
13 matter of public policy that the public has a right to information
14 necessary to protect members of the public from harm caused by alleged
15 hazards to the public. The legislature also recognizes that protection
16 of trade secrets, confidential research, and proprietary, commercial,
17 or financial information concerning products or business methods
18 promotes business activity and prevents unfair competition. Therefore,
19 the legislature declares it a matter of public policy that the
20 confidentiality of such information be protected and its unnecessary
21 disclosure be prevented.

22 NEW SECTION. **Sec. 2.** A new section is added to chapter 4.24 RCW
23 to read as follows:

24 As used in this section:

25 (1)(a) "Public hazard claim" means a claim for damages for personal
26 injury, wrongful death, or property damage caused by an allegedly
27 unsafe product or allegedly hazardous or toxic substances, that
28 presents a risk of similar injury to other members of the public.

29 (b) "Confidentiality provision" means any terms in a court order or
30 a private agreement terminating a public hazard claim, that limit the
31 possession, disclosure, or dissemination of information about an
32 alleged public hazard, whether those terms are integrated in the order
33 or private agreement or written separately.

34 (2) Members of the public have a right to information necessary for
35 a lay member of the public to understand the nature, source, and extent

1 of the risk alleged from the public hazard, in order to protect
2 themselves against public hazards, except as provided in subsection (4)
3 of this section.

4 (3) Members of the public have a right to the protection of trade
5 secrets as defined in RCW 19.108.010; confidential research,
6 development, proprietary, financial, or commercial information
7 concerning products or business methods; or personal information;
8 except as provided in subsection (4) of this section.

9 (4)(a) Confidentiality provisions may be ordered by the court as
10 part of temporary orders as to any matters the court deems appropriate
11 without regard to this chapter.

12 (b) If the court determines by summary judgment or judgment after
13 trial that no public hazard exists, confidentiality provisions may be
14 ordered by the court as to any matters the court deems appropriate
15 without regard to this chapter.

16 (c) If the court determines by summary judgment or judgment after
17 trial that a public hazard exists, confidentiality provisions may be
18 ordered by the court only as to any information the court finds not
19 necessary for a lay member of the public to understand the nature,
20 source, and extent of the risk from the public hazard.

21 (d) When public hazard claims are resolved other than by summary
22 judgment or judgment after trial, confidentiality provisions may be
23 ordered or enforced by the court only when the court finds, based on
24 the evidence, that the confidentiality provisions are in the public
25 interest. In determining the public interest, the court shall balance
26 the right of the public to protect themselves from public hazards as
27 provided in subsection (2) of this section against the right of the
28 public to protect the confidentiality of information as provided in
29 subsection (3) of this section.

30 (e) Any confidentiality provisions in private agreements that are
31 not adopted consistent with the provisions of this section are voidable
32 by the court.

33 (f) Any confidentiality provisions related to public hazard claims
34 that are determined void are severable from the remainder of the order
35 or agreement notwithstanding any provision to the contrary and the
36 remainder of the order or agreement shall remain in force.

37 (g) Nothing in sections 1 and 2 of this act prevents the court from
38 denying the request for confidentiality provisions under other law nor
39 limits the scope of discovery pursuant to court rule.

1 (5) In cases of third party actions challenging confidentiality
2 provisions in orders or agreements, the court has discretion to award
3 to the prevailing party actual damage, costs, reasonable attorneys'
4 fees, and such other terms as the court deems just.

5 (6) The following acts or parts of acts are each repealed on the
6 effective date of this section:

7 (a) RCW 4.24.600 and 1993 c 17 s 1;

8 (b) RCW 4.24.610 and 1993 c 17 s 2;

9 (c) RCW 4.24.620 and 1993 c 17 s 3;

10 (d) RCW 4.16.380 and 1993 c 17 s 5; and

11 (e) 1993 c 17 s 4 (uncodified).

12 NEW SECTION. **Sec. 3.** This act applies to all confidentiality
13 provisions entered or executed with respect to public hazard claims on
14 or after July 25, 1993.

15 NEW SECTION. **Sec. 4.** This act is necessary for the immediate
16 preservation of the public peace, health, or safety, or support of the
17 state government and its existing public institutions, and shall take
18 effect immediately."

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