

SENATE BILL REPORT

SB 6196

AS OF JANUARY 24, 1994

Brief Description: Modifying provisions relating to public hazard claims.

SPONSORS: Senator A. Smith

SENATE COMMITTEE ON LAW & JUSTICE

Staff: Dick Armstrong (786-7460)

Hearing Dates: January 27, 1994

BACKGROUND:

Last year legislation was enacted which was intended to inform the public of the existence of public hazards. The statute generally provides that information regarding public hazards cannot be sealed by court orders nor concealed by private contract or agreement. Public hazards are products or instrumentalities which pose a danger of damage or injury to the public.

Concern has been expressed by the business community that the specific language of the bill is too broad and vague. The business community is concerned that the statute could be interpreted in a manner to require the unnecessary disclosure of trade secrets, confidential research, and proprietary, commercial or financial information concerning products and business methods.

SUMMARY:

The existing statute governing hazards to the public is repealed and replaced by a statute which provides more precise definitions of the type of damage claims covered by the statute, as well as specific criteria for courts to use in entering or enforcing confidentiality provisions.

The public hazard statute applies to tort claims and notices for damages for personal injury, wrongful death or property damage caused by a defective product or hazardous substance and which presents a risk of injury to the public.

Generally, confidentiality agreements which conceal information necessary for the public to understand the nature, source, and extent of risk of a public hazard may not be ordered or enforced by a court. If the risk to the public is minimal, confidentiality provisions may be ordered.

Trade secrets, confidential research, and proprietary, commercial or financial information concerning products and

business methods are exempt from disclosure, unless such information is necessary for the public to understand the nature of the risk from the public hazard.

In third party actions challenging confidentiality provisions, the court may award the prevailing party actual damages, costs and reasonable attorney fees. The provisions of the bill apply to confidentiality provisions entered or executed on or after July 1, 1993.

Appropriation: none

Revenue: none

Fiscal Note: none requested

Effective Date: Retroactive to July 1, 1993.