

**FINAL BILL REPORT**

**ESSB 6484**

**C 42 L 94**

**SYNOPSIS AS ENACTED**

**Brief Description:** Regulating confidentiality claims in court settlements involving public hazards.

**SPONSORS:** Senate Committee on Law & Justice (originally sponsored by Senators A. Smith and Nelson; by request of Governor Lowry)

**SENATE COMMITTEE ON LAW & JUSTICE**

**HOUSE COMMITTEE ON JUDICIARY**

**BACKGROUND:**

Last year legislation was enacted to inform the public of the existence of public hazards. The statute states 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.

The business community has expressed concern the specific language is too broad and could be interpreted to require the unnecessary disclosure of trade secrets, confidential research, and proprietary, commercial or financial information.

**SUMMARY:**

Current law concerning concealing information about public hazards is repealed and replaced.

A "product liability/hazardous substance claim" means a claim for damages for personal injury, wrongful death, or property damage caused by a product or hazardous or toxic substance that presents a risk of similar injury to other members of the public. A "confidentiality provision" means any terms in a court order or a private agreement terminating a product liability/hazardous substance claim that limit possession or disclosure of information about an alleged hazard to the public.

Confidentiality agreements may be entered, ordered or enforced by a court only if the court finds that such an agreement is in the public interest. In determining public interest, the court is to balance the right of the public to information regarding the risk against the right of the public to protect the confidentiality of the information.

If a third party challenges confidentiality provisions in orders or agreements, the court may award to the prevailing party actual damages, costs, and reasonable attorneys' fees, and may impose other terms.

The act applies to confidentiality provisions entered on or after May 1, 1994.

**VOTES ON FINAL PASSAGE:**

|        |    |    |                    |
|--------|----|----|--------------------|
| Senate | 32 | 16 |                    |
| House  | 94 | 2  | (House amended)    |
| Senate | 47 | 0  | (Senate concurred) |

**EFFECTIVE:** May 1, 1994