
HOUSE BILL 2822

State of Washington 53rd Legislature 1994 Regular Session

By Representative Peery; by request of Governor Lowry

Read first time 01/24/94. Referred to Committee on Judiciary.

1 AN ACT Relating to disclosure of information in civil court
2 proceedings; adding a new chapter to Title 4 RCW; repealing RCW
3 4.24.600, 4.24.610, 4.24.620, and 4.16.380; repealing 1993 c 17 s 4
4 (uncodified); and declaring an emergency.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** The legislature finds that public health and
7 safety is promoted when the public has knowledge that enables members
8 of the public to make informed choices about risks to their health and
9 safety. Therefore, the legislature declares as a matter of public
10 policy that the public has a right to information necessary to protect
11 members of the public from harm caused by alleged hazards to the
12 public. The legislature also recognizes that protection of trade
13 secrets, confidential research, and proprietary, commercial, or
14 financial information concerning products or business methods promotes
15 business activity and prevents unfair competition. Therefore, the
16 legislature declares it a matter of public policy that the
17 confidentiality of such information be protected and its unnecessary
18 disclosure be prevented.

1 NEW SECTION. **Sec. 2.** As used in this chapter:

2 (1) "Product liability/environmental damage claim" means a civil
3 action for damages for personal injury, wrongful death, or property
4 damage caused by an allegedly defective product or by allegedly
5 hazardous or toxic substances, that present a risk of similar injury to
6 other members of the public.

7 (2) "Confidentiality provision" means any terms contained in a
8 court order or private agreement settling, concluding, or terminating
9 a product liability/environmental damage claim, whether those terms are
10 integrated in the order or private agreement or written separately,
11 that limit the possession, disclosure, or dissemination of information
12 about an alleged hazard to the public.

13 NEW SECTION. **Sec. 3.** In civil actions involving product
14 liability/environmental damage claims, no confidentiality provision may
15 be entered or enforceable upon settlement or conclusion of the action
16 except as provided in section 4 of this act. Nothing in this chapter
17 may affect the issuance of any protective or discovery order protecting
18 writings or information during the course of litigation pursuant to
19 existing court rules and procedure.

20 NEW SECTION. **Sec. 4.** (1) In civil actions involving product
21 liability/environmental damage claims, no confidentiality provision may
22 be entered or enforced by the court absent a showing of good cause by
23 the moving party or parties. In determining whether there is good
24 cause to allow nondisclosure of information, the court shall consider:

25 (a) Whether the information is necessary for a lay member of the
26 public to understand the nature, source, and extent of the risk from
27 the alleged hazard to the public;

28 (b) The likely severity of the harm to the public that would occur
29 if information is not disclosed;

30 (c) The likely severity of the harm that would occur if
31 confidentiality is not provided.

32 (2) Any confidentiality provisions that are not adopted consistent
33 with the provisions of this chapter are voidable and are severable from
34 the remainder of the order or agreement notwithstanding any provision
35 to the contrary.

36 (3) Nothing in this chapter prevents the court from denying the
37 request for confidentiality provisions under other law.

1 NEW SECTION. **Sec. 5.** This chapter applies to all confidentiality
2 provisions entered or executed with respect to product
3 liability/environmental damage claims on or after July 25, 1993. All
4 rights or causes of action accrued or proceedings undertaken under
5 chapter 17, Laws of 1993, are extinguished and voided and considered to
6 have never existed.

7 NEW SECTION. **Sec. 6.** The following acts or parts of acts are each
8 repealed:

- 9 (1) RCW 4.24.600 and 1993 c 17 s 1;
- 10 (2) RCW 4.24.610 and 1993 c 17 s 2;
- 11 (3) RCW 4.24.620 and 1993 c 17 s 3;
- 12 (4) RCW 4.16.380 and 1993 c 17 s 5; and
- 13 (5) 1993 c 17 s 4 (uncodified).

14 NEW SECTION. **Sec. 7.** Sections 1 through 5 of this act shall
15 constitute a new chapter in Title 4 RCW.

16 NEW SECTION. **Sec. 8.** This act is necessary for the immediate
17 preservation of the public peace, health, or safety, or support of the
18 state government and its existing public institutions, and shall take
19 effect immediately.

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