

CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE SENATE BILL 6484

53rd Legislature
1994 Regular Session

Passed by the Senate March 10, 1994
YEAS 47 NAYS 0

President of the Senate

Passed by the House March 10, 1994
YEAS 94 NAYS 2

**Speaker of the
House of Representatives**

Approved

CERTIFICATE

I, Marty Brown, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE SENATE BILL 6484** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

Governor of the State of Washington

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE SENATE BILL 6484

AS AMENDED BY THE HOUSE

Passed Legislature - 1994 Regular Session

State of Washington 53rd Legislature 1994 Regular Session

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

Read first time 02/04/94.

1 AN ACT Relating to public hazard claims; adding new sections to
2 chapter 4.24 RCW; creating a new section; repealing RCW 4.24.600,
3 4.24.610, 4.24.620, and 4.16.380; repealing 1993 c 17 s 4
4 (uncodified); and providing an effective date.

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

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

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

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

3 As used in section 1 of this act and this section:

4 (1)(a) "Product liability/hazardous substance claim" means a
5 claim for damages for personal injury, wrongful death, or property
6 damage caused by a product or hazardous or toxic substances, that is
7 an alleged hazard to the public and that presents an alleged risk of
8 similar injury to other members of the public.

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

15 (c) "Members of the public" includes any individual, group of
16 individuals, partnership, corporation, or association.

17 (2) Except as provided in subsection (4) of this section, members
18 of the public have a right to information necessary for a lay member
19 of the public to understand the nature, source, and extent of the
20 risk from alleged hazards to the public.

21 (3) Except as provided in subsection (4) of this section, members
22 of the public have a right to the protection of trade secrets as
23 defined in RCW 19.108.010, other confidential research, development,
24 or commercial information concerning products or business methods.

25 (4)(a) Nothing in this chapter shall limit the issuance of any
26 protective or discovery orders during the course of litigation
27 pursuant to court rules.

28 (b) Confidentiality provisions may be entered into or ordered or
29 enforced by the court only if the court finds, based on the evidence,
30 that the confidentiality provision is in the public interest. In
31 determining the public interest, the court shall balance the right of
32 the public to information regarding the alleged risk to the public
33 from the product or substance as provided in subsection (2) of this
34 section against the right of the public to protect the
35 confidentiality of information as provided in subsection (3) of this
36 section.

37 (5)(a) Any confidentiality provisions that are not adopted
38 consistent with the provisions of this section are voidable by the
39 court.

1 (b) Any confidentiality provisions that are determined to be void
2 are severable from the remainder of the order or agreement
3 notwithstanding any provision to the contrary and the remainder of
4 the order or agreement shall remain in force.

5 (c) Nothing in section 1 of this act and this section prevents
6 the court from denying the request for confidentiality provisions
7 under other law nor limits the scope of discovery pursuant to
8 applicable court rules.

9 (6) In cases of third party actions challenging confidentiality
10 provisions in orders or agreements, the court has discretion to award
11 to the prevailing party actual damages, costs, reasonable attorneys'
12 fees, and such other terms as the court deems just.

13 (7) The following acts or parts of acts are each repealed on the
14 effective date of this section:

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

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

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

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

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

20 NEW SECTION. **Sec. 3.** This act applies to all confidentiality
21 provisions entered or executed with respect to product
22 liability/hazardous substance claims on or after May 1, 1994.

23 NEW SECTION. **Sec. 4.** This act is necessary for the immediate
24 preservation of the public peace, health, or safety, or support of
25 the state government and its existing public institutions, and shall
26 take effect May 1, 1994.

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