
SENATE BILL 5646

State of Washington

59th Legislature

2005 Regular Session

By Senators Kline, Rockefeller, Franklin, Shin, Fraser, Prentice, Keiser and Kohl-Welles

Read first time 02/01/2005. Referred to Committee on Judiciary.

1 AN ACT Relating to concealment of public hazard information; adding
2 a new section to chapter 4.24 RCW; and creating a new section.

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

4 NEW SECTION. **Sec. 1.** The intent of this act is to prevent
5 confidentiality agreements in lawsuits involving a public hazard so
6 that the public and public institutions are better able to identify
7 newly emerging risks and prevent future injuries produced by similar
8 situations, as well as to better identify the safety records of
9 manufacturers, vendors, practitioners, and facilities.

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

12 (1) This section may be cited as the "sunshine in public hazard
13 litigation act."

14 (2) As used in this section, "public hazard" means a condition,
15 product, or practice that is reasonably likely to cause harm to others
16 if not publicly disclosed.

17 (3) Except pursuant to this section, a court shall not enter an
18 order or judgment, or approve or enforce any provision of an agreement

1 between or among parties to a civil action, which has the purpose or
2 effect of concealing a public hazard or any information concerning a
3 public hazard, nor shall the court enter an order or judgment which has
4 the purpose or effect of concealing any information which may be useful
5 to members of the public in protecting themselves from injury which may
6 result from a public hazard.

7 (4) Any portion of an agreement or contract which has the purpose
8 or effect of concealing: (a) One or more past incidents involving a
9 public hazard; (b) any information concerning a public hazard; or (c)
10 any information which may be useful to members of the public in
11 protecting themselves from injury which may result from a public
12 hazard, is void, contrary to public policy, and may not be enforced.

13 (5) Trade secrets as defined in RCW 19.108.010 which are not
14 pertinent to the public hazard shall be protected pursuant to chapter
15 19.108 RCW.

16 (6) Any substantially affected person, including but not limited to
17 representatives of news media, has standing to contest an order,
18 judgment, agreement, or contract that violates this section. A person
19 may contest an order, judgment, agreement, or contract that violates
20 this section by motion in the court that entered the order or judgment,
21 or by bringing a declaratory judgment action.

22 (7) Upon motion and good cause shown by a party attempting to
23 prevent disclosure of information or materials which have not
24 previously been disclosed, including but not limited to alleged trade
25 secrets, the court shall examine the disputed information or materials
26 in camera. If the court finds that the information or materials or
27 portions thereof consist of information concerning a public hazard or
28 information which may be useful to members of the public in protecting
29 themselves from injury which may result from a public hazard, the court
30 shall allow disclosure of the information or materials. If allowing
31 disclosure, the court shall allow disclosure of only that portion of
32 the information or materials necessary or useful to the public
33 regarding the public hazard.

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