

SENATE BILL REPORT

SB 5455

As of February 17, 2019

Title: An act relating to exempting United States food and drug administration nonpublic information from disclosure under the state public disclosure act.

Brief Description: Exempting United States food and drug administration nonpublic information from disclosure under the state public disclosure act.

Sponsors: Senators Takko, Warnick, McCoy, Honeyford and Van De Wege; by request of Department of Agriculture.

Brief History:

Committee Activity: State Government, Tribal Relations & Elections: 2/20/19.

Brief Summary of Bill

- Exempts from disclosure requirements certain information obtained from the Food and Drug Administration.

SENATE COMMITTEE ON STATE GOVERNMENT, TRIBAL RELATIONS & ELECTIONS

Staff: Samuel Brown (786-7470)

Background: Public Records Act. The Public Records Act (PRA), enacted in 1972 as part of Initiative 276, requires that all state and local government agencies make all public records available for public inspection and copying unless certain statutory exemptions apply. Over 500 specific references in the PRA or other statutes remove certain information from application of the PRA, provide exceptions to the public disclosure and copying of certain information, or designate certain information as confidential. The provisions requiring public records disclosure must be interpreted liberally while the exemptions are interpreted narrowly to effectuate the general policy favoring disclosure.

The PRA provides exemptions from public disclosure for certain information relating to agriculture and livestock, including:

- information on the purchase, sale, or production of individual American ginseng growers or dealers;

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- information for issuance of certificates of compliance for packers and shippers of fruits and vegetables;
- certain herd inventory management information for animal disease traceability submitted to the Washington State Department of Agriculture (WSDA) by an individual or business; and
- financial statements used to determine whether an applicant meets the minimum net worth requirements to operate a public livestock market.

Freedom of Information Act. The Freedom of Information Act (FOIA) provides for the disclosure of information and documents controlled by the United States government. Some types of information are exempt from disclosure under the FOIA, including trade secrets, certain commercial and financial information obtained from a person, and geological information and data concerning wells.

Summary of Bill: Information or records obtained by WSDA from the Food and Drug Administration (FDA) pursuant to a FDA contract or commissioning agreement are exempt from public disclosure if the information or records are also exempt from disclosure under the federal FOIA, including:

- confidential commercial information;
- information protected under the federal deliberative process privilege;
- information compiled by law enforcement; and
- information expressly required to be kept confidential by other federal laws.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.