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**SENATE BILL 6484**

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**State of Washington                      53rd Legislature                      1994 Regular Session**

**By Senators A. Smith and Nelson; by request of Governor Lowry**

Read first time 01/25/94. Referred to Committee on Law & Justice.

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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