

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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SENATE BILL 438

Short Title: Confidential Info. Protected.

(Public)

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Sponsors: Senator Walker.

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Referred to: Judiciary II.

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April 1, 1991

A BILL TO BE ENTITLED

AN ACT TO ALLOW THE DEPARTMENT OF ENVIRONMENT, HEALTH, AND  
NATURAL RESOURCES TO PROTECT CERTAIN CONFIDENTIAL  
INFORMATION.

The General Assembly of North Carolina enacts:

Section 1. Chapter 104E of the General Statutes is amended by adding a new section to read:

**"§ 104E-29. Confidential information protected.**

(a) The following information received or prepared by the Department in the course of carrying out its duties and responsibilities under this Chapter is confidential information and shall not be subject to disclosure under G.S. 132-6:

(1) Information which the Department determines is entitled to confidential treatment as business information, including but not limited to trade secrets or commercial or financial information. The Department shall not make a determination that information is entitled to confidential treatment under this subdivision unless the person submitting the information specifically requests that the Department make such determination.

(2) Information requested from or provided by a federal or State agency under a claim of confidentiality.

(3) Information compiled in anticipation of enforcement or criminal proceedings, but only to the extent disclosure could reasonably be expected to interfere with the institution of such proceedings.

1 (b) Confidential information may be disclosed to officers, employees, or  
2 authorized representatives of federal or State agencies if such disclosure is necessary to  
3 carry out a proper function of the Department or the requesting agency or when relevant  
4 in any proceeding under this Chapter.

5 (c) Except as provided in subsection (b) of this section or as otherwise provided  
6 by law, any officer or employee of the Department who knowingly discloses  
7 information designated as confidential under this section shall be guilty of a  
8 misdemeanor punishable by a fine of not more than five hundred dollars (\$500.00) or  
9 imprisonment for not more than two years or both and shall be removed from office or  
10 discharged from employment.

11 (d) As used in this section, the term 'trade secret' has the same meaning as in  
12 G.S. 66-152."

13 Sec. 2. G.S. 130A-304 reads as rewritten:

14 "**§ 130A-304. Information received pursuant to this Article. Confidential information**  
15 **protected.**

16 (a) ~~For the purposes of this Article, upon a showing satisfactory to the~~  
17 ~~Department by a person that all or any part of records, reports or information to which~~  
18 ~~the Department has access under G.S. 130A-17, would divulge information entitled to~~  
19 ~~protection under subsection (b), the Department shall consider the information~~  
20 ~~confidential in accordance with the purposes of that subsection, except that the record,~~  
21 ~~report or information may be disclosed to other officers, employees or authorized~~  
22 ~~representatives of the Department concerned with carrying out this Article or when~~  
23 ~~relevant in any proceeding under this Article. The following information received or~~  
24 ~~prepared by the Department in the course of carrying out its duties and responsibilities~~  
25 ~~under this Article is confidential information and shall not be subject to disclosure under~~  
26 ~~G.S. 132-6:~~

27 (1) Information which the Department determines is entitled to  
28 confidential treatment as business information, including but not  
29 limited to trade secrets or commercial or financial information. The  
30 Department shall not make a determination that information is entitled  
31 to confidential treatment under this subdivision unless the person  
32 submitting the information specifically requests that the Department  
33 make such determination.

34 (2) Information requested from or provided by a federal or State agency  
35 under a claim of confidentiality.

36 (3) Information compiled in anticipation of enforcement or criminal  
37 proceedings, but only to the extent disclosure could reasonably be  
38 expected to interfere with the institution of such proceedings.

39 (b) Confidential information may be disclosed to officers, employees, or  
40 authorized representatives of federal or State agencies if such disclosure is necessary to  
41 carry out a proper function of the Department or the requesting agency or when relevant  
42 in any proceeding under this Chapter. ~~For the purposes of this Article, if an officer or~~  
43 ~~employee of the Department publishes, divulges, discloses or makes known in any manner or to~~  
44 ~~any extent not authorized by law any information revealed in the course of employment or~~

1 ~~official duties or by reason of examination or investigation made by, or return, report or record~~  
2 ~~made to or filed with the Department which information concerns or relates to the trade secrets,~~  
3 ~~or to the identity, confidential statistical data, amount or source of any income, profits, losses,~~  
4 ~~or expenditures of any person, firm, partnership, corporation, or association; or permits any~~  
5 ~~income return or copy or any book containing any abstract or its particulars to be seen or~~  
6 ~~examined by any person except as provided in subsection (a) shall be guilty of a misdemeanor~~  
7 ~~and fined not more than five hundred dollars (\$500.00) or imprisoned not more than two years~~  
8 ~~or both; and shall be removed from office or employment.~~

9 (c) Except as provided in subsection (b) of this section or as otherwise provided  
10 by law, any officer or employee of the Department who knowingly discloses  
11 information designated as confidential under this section shall be guilty of a  
12 misdemeanor punishable by a fine of not more than five hundred dollars (\$500.00) or  
13 imprisonment for not more than two years or both and shall be removed from office or  
14 discharged from employment.

15 (d) As used in this section, the term 'trade secret' has the same meaning as in  
16 G.S. 66-152."

17 Sec. 3. This act is effective upon ratification.