

HOUSE BILL 473

Introduced by Toole, et al.

1/30	Introduced
1/30	Referred to Judiciary
1/31	First Reading
2/15	Hearing
2/18	Tabled in Committee
2/23	Committee Report--Bill Passed as Amended
2/26	2nd Reading Do Pass Motion Failed

1 HOUSE BILL NO. 473
2 INTRODUCED BY Tom Whalen Sr.

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROMOTE THE PUBLIC
5 INTEREST BY FORBIDDING COURTS FROM ENTERING CIVIL PROTECTIVE
6 ORDERS THAT CONCEAL PUBLIC HAZARDS, SUCH AS DEFECTIVE
7 PRODUCTS OR DANGEROUS PROCEDURES, OR THAT PROTECT
8 INDIVIDUALS WHOSE CONDUCT MAY BE CONSIDERED HAZARDOUS; AND
9 RENDERING ANY AGREEMENT CONCEALING A PUBLIC HAZARD
10 UNENFORCEABLE."

11
12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13 NEW SECTION. Section 1. Concealment of public hazard
14 prohibited. (1) As used in this section, "public hazard"
15 means any instrumentality, including but not limited to any
16 device, instrument, person, procedure, or product or a
17 condition of a device, instrument, person, procedure, or
18 product, that has caused or is likely to cause injury.

19 (2) Except as provided in this section, a court may
20 not:

21 (a) enter an order or judgment that has the purpose or
22 effect of concealing a public hazard or any information
23 concerning a public hazard; or

24 (b) enter an order or judgment that has the purpose or
25 effect of concealing any information that may be useful to

1 members of the public in protecting themselves from injury
2 that may result from a public hazard.

3 (3) Any portion of an agreement or contract that has
4 the purpose or effect of concealing a public hazard, any
5 information concerning a public hazard, or any information
6 that may be useful to members of the public in protecting
7 themselves from injury that may result from the public
8 hazard is void, is contrary to public policy, and may not be
9 enforced.

10 (4) Trade secrets that are not pertinent to public
11 hazards remain protected pursuant to Rule 26(c), Montana
12 Rules of Civil Procedure.

13 (5) A substantially affected person, including but not
14 limited to representatives of the news media, has standing
15 to contest an order, judgment, agreement, or contract that
16 violates this section. A person may contest an order,
17 judgment, agreement, or contract that violates this section
18 by motion in the court that entered the order or judgment or
19 by bringing a declaratory judgment action under Title 27,
20 chapter 8.

21 (6) Upon motion and good cause shown by the party
22 attempting to prevent disclosure of information or materials
23 that have not previously been disclosed, including but not
24 limited to alleged trade secrets, the court shall examine
25 the disputed information or materials in camera. If the



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1 court finds that the information or materials or portions of
2 the information or materials consist of information
3 concerning a public hazard or information that may be useful
4 to members of the public in protecting themselves from
5 injury that may result from a public hazard, the court shall
6 allow disclosure of the information or materials. If the
7 court allows disclosure, it shall allow disclosure of only
8 that portion of the information or materials necessary or
9 useful to the public regarding the public hazard.

-End-

APPROVED BY COMMITTEE
ON JUDICIARY

HOUSE BILL NO. 473

INTRODUCED BY TOOLE, WHALEN, SVRCEK

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROMOTE THE PUBLIC INTEREST BY FORBIDDING COURTS FROM ENTERING CIVIL PROTECTIVE ORDERS THAT CONCEAL PUBLIC HAZARDS~~7--SUCH--AS--DEFECTIVE PRODUCTS---OR---DANGEROUS---PROCEDURES7---OR---THAT--PROTECT INDIVIDUALS--WHOSE--CONDUCT--MAY--BE--CONSIDERED--HAZARDOUS~~ IN PRODUCTS, INSTRUMENTS, OR DEVICES; AND RENDERING ANY AGREEMENT CONCEALING SUCH A PUBLIC HAZARD UNENFORCEABLE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1.** Concealment of public hazard

prohibited. (1) As used in this section, "public hazard" means ~~any instrumentality7-including-but-not-limited-to--any~~ A PRODUCT, device, OR instrument~~7--person7-procedure7-or product~~ or a condition of a PRODUCT, device, OR instrument~~7 person7-procedure7-or-product7~~ that has caused or is likely to cause injury.

(2) Except as provided in this section, a court may not:

(a) enter an order or judgment that has the purpose or effect of concealing a public hazard or any information concerning a public hazard; or

(b) enter an order or judgment that has the purpose or

effect of concealing any information that may be useful to members of the public in protecting themselves from injury that may result from a public hazard.

(3) Any portion of an agreement or contract that has the purpose or effect of concealing a public hazard, any information concerning a public hazard, or any information that may be useful to members of the public in protecting themselves from injury that may result from the public hazard is void, is contrary to public policy, and may not be enforced.

(4) Trade secrets that are not pertinent to public hazards remain protected pursuant to Rule 26(c), Montana Rules of Civil Procedure.

(5) A substantially affected person, including but not limited to representatives of the news media, has standing to contest an order, judgment, agreement, or contract that violates this section. A person may contest an order, judgment, agreement, or contract that violates this section by motion in the court that entered the order or judgment or by bringing a declaratory judgment action under Title 27, chapter 8.

(6) Upon motion and good cause shown by the party attempting to prevent disclosure of information or materials that have not previously been disclosed, including but not limited to alleged trade secrets, the court shall examine



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1 the disputed information or materials in camera. If the
2 court finds that the information or materials or portions of
3 the information or materials consist of information
4 concerning a public hazard or information that may be useful
5 to members of the public in protecting themselves from
6 injury that may result from a public hazard, the court shall
7 allow disclosure of the information or materials. If the
8 court allows disclosure, it shall allow disclosure of only
9 that portion of the information or materials necessary or
10 useful to the public regarding the public hazard.

-End-