Senate BILL NO. 38
INTRODUCED BY Noman Brown (REQUEST HEE.
A BILL FOR AN ACT ENTITLED: "AN ACT TO ESTABLISH PROCEDURES
FOR MAINTAINING THE CONFIDENTIALITY OF TRADE SECRETS
INVOLVED IN AIR POLLUTION CONTROL PROCEEDINGS; PROVIDING
EMISSION DATA SHALL NOT BE CONSIDERED CONFIDENTIAL FOR THE
PURPOSE OF THE CLEAN AIR ACT; AMENDING SECTION 69-3918,
R.C.M. 1947."
DE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
Section 1. Section 69-3918, R.C.M. 1947, is amended to
read as follows:
"69-3918. Confidentiality of records. (1) Records or
other information concerning air contaminant sources which
are furnished to or obtained by the board or department, and
which,-as-certified-by-theowneroroperator,relateto
productionorsalesfigures-or-to-processes-or-production
unique-to-the-owner-oroperatororwhichwouldtendto
affectadversely-his-competitive-position;-are-only-for-the
confidentialuseoftheboardordepartmentinthe
administrationofthisactyunlesstheowner-expressly
agrees-to-their-publication-or-availability-tothegeneral
public are a matter of public record and open to public
use. However, any information unique to the owner or

1	operator of an air contaminant source which would, if
2	disclosed, reveal methods or processes entitled to
3	protection as trade secrets, shall be maintained as
4	confidential if requested by the owner or operator and found
5	to be a trade secret by the board. Any trade secrets not
6	intended to be public when submitted to the board or
7	department shall be submitted in writing and clearly marked
8	as confidential. However, emission data shall never be
9 .	considered confidential for the purposes of this section.
LO	(2) This section does not prevent the use of records or
l1	information by the board or department in compiling or
L2	publishing analyses or summaries relating to the general
1.3	condition of the outdoor atmosphere, if the analyses or
L4	summaries do not identify an owner or operator or reveal
L 5	information made otherwise confidential by this section."

-End-

Approved by Committee on Natural Resources

Approved by Comm. on Fish and Game

INTRODUCED BY Noman Brown (REQUEST HEE.S.) 1

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A BILL FOR AN ACT ENTITLED: "AN ACT TO ESTABLISH PROCEDURES FOR MAINTAINING THE CONFIDENTIALITY OF TRADE SECRETS 5

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INVOLVED IN AIR POLLUTION CONTROL PROCEEDINGS; PROVIDING

EMISSION DATA SHALL NOT BE CONSIDERED CONFIDENTIAL FOR THE

3 PURPOSE OF THE CLEAN AIR ACT; AMENDING SECTION 69-3918,

R.C.M. 1947."

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

Section 1. Section 69-3918, R.C.M. 1947, is amended to 12

read as follows: 13

> *69-3918. Confidentiality of records. (1) Records or other information concerning air contaminant sources which are furnished to or obtained by the board or department, and which -- as-certified-by-the--owner--or--operator---relate--to production--or--sales--figures-or-to-processes-or-production unique-to-the-owner-or--operator--or--which--would--tend--te affect--adversely-his-competitive-position;-arc-only-for-the confidential--use--of--the--board--or--department---in---the administration -- of -- this -- act -- unless -- the -- owner - expressly agrees-to-their-publication-or-availability-to--the--general public are a matter of public record and open to public

use. However, any information unique to the owner_or

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1 operator of an air contaminant source which would, if disclosed, reveal methods or processes entitled protection as trade secrets, shall be maintained as confidential if requested by the owner or operator and found to be a trade secret by the board. Any trade secrets not intended to be public when submitted to the board or department shall be submitted in writing and clearly marked as confidential. However, emission data shall never be considered confidential for the purposes of this section.

(2) This section does not prevent the use of records or information by the board or department in compiling or publishing analyses or summaries relating to the general condition of the outdoor atmosphere, if the analyses or summaries do not identify an owner or operator or reveal information made otherwise confidential by this section."

-End-

1	Senate BILL NO. 38
2	INTRODUCED BY Noman Brown (REQUEST HEE.S.)
3 .	
4	A BILL FOR AN ACT ENTITLED: "AN ACT TO ESTABLISH PROCEDURES
5	FOR MAINTAINING THE CONFIDENTIALITY OF TRADE SECRETS
6	INVOLVED IN AIR POLLUTION CONTROL PROCEEDINGS; PROVIDING
7	EMISSION DATA SHALL NOT BE CONSIDERED CONFIDENTIAL FOR THE
8	PURPOSE OF THE CLEAN AIR ACT; AMENDING SECTION 69-3918,
9	R.C.M. 1947."
L O	
11	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
12	Section 1. Section 69-3918, R.C.M. 1947, is amended to
13	read as follows:
1.4	"69-3913. Confidentiality of records. (1) Records or
15	other information concerning air contaminant sources which
1 ธ	are furnished to or obtained by the board or department, and
17	which,-as-certified-by-theowneroroperator,relateto
18	productionorsalesfigures-or-to-processes-or-production
19	unique-to-the-owner-oroperatororwhichwouldtendto
20	affectadversely-his-competitive-position,-are-only-for-the
21	confidentialuseoftheboardordepartmentinthe
22	administrationofthisactyunlesstheewner-expressly
23	agrees-to-their-publication-or-availability-tothegeneral
24	public. are a matter of public record and open to public
25	use. However, any information unique to the owner or

operator of an air contaminant source which would, if disclosed, reveal methods processes entitled protection trade secrets, shall be maintained as confidential if requested by the owner or operator and found to be a trade secret by the board. Any trade secrets not intended to be public when submitted to the board or department shall be submitted in writing and clearly marked 8 as confidential. However, emission data shall never be considered confidential for the purposes of this section. 10 (2) This section does not prevent the use of records or 11 information by the board or department in compiling or 12 publishing analyses or summaries relating to the general 13 condition of the outdoor atmosphere, if the analyses or 14 summaries do not identify an owner or operator or reveal 15 information made otherwise confidential by this section."

SB 38

-End-

HOUSE OF REPRESENTATIVES

March 13, 1975

COMMITTEE ON NATURAL RESOURCES AMENDMENTS TO SENATE BILL NO. 38

Be amended in the third reading copy as follows:

1. Amend page 2, section 1, subsection (1), lines 4 and 5.
Following: "if"

Strike: "requested by the owner or operator and found to be a trade secret by the board"

Insert: "so determined by a court of competent jurisdiction. The owner or operator shall file a declaratory judgement action to establish the existence of a trade secret, if he wishes such information to enjoy confidential status. The department shall be served in any such action, and may intervene as a party therein"

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2	INTRODUCED BY NORMAN, BROWN, (BY REQUEST OF
3	THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES)
4	
5	A BILL FOR AN ACT ENTITLED: "AN ACT TO ESTABLISH PROCEDURES
6	FOR MAINTAINING THE CONFIDENTIALITY OF TRADE SECRETS
7	INVOLVED IN AIR POLLUTION CONTROL PROCEEDINGS; PROVIDING
8	EMISSION DATA SHALL NOT BE CONSIDERED CONFIDENTIAL FOR THE
9	PURPOSE OF THE CLEAN AIR ACT; AMENDING SECTION 69-3918,
10	R.C.M. 1947.*
11	
12	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
13	Section 1. Section 69-3918, R.C.M. 1947, is amended to
14	read as follows:
15	*69-3918. Confidentiality of records. (1) Records of
16	other information concerning air contaminant sources which
17	are furnished to or obtained by the board or department,-and
18	whichy-as-certified-by-theowneroroperatoryrelatete
19	productionorsalesfigures-or-to-processes-or-production
20	unique-to-the-owner-oroperatororwhichwouldtendte
21	affectadversely-his-competitive-position;-are-only-for-th
22	confidentialuseoftheboardordepartmentinth
23	administrationofthisact;unlesstheowner-expressl
24	agrees-to-their-publication-or-availability-tothegeneral
25	public: are a matter of public record and open to publi

SENATE BILL NO. 38

1	use. However, any information unique to the owner or
2	operator of an air contaminant source which would, is
3	disclosed, reveal methods or processes entitled to
4	protection as trade secrets, shall be maintained as
5	confidential if requested-by-the-owner-or-operator-and-found
6	to-be-a-trade-secret-by-the-beard SO DETERMINED BY A COURT
7	OF COMPETENT JURISDICTION. THE OWNER OR OPERATOR SHALL FILE
8	A DECLARATORY JUDGEMENT ACTION TO ESTABLISH THE EXISTENCE OF
9	A TRADE SECRET, IF HE WISHES SUCH INFORMATION TO ENJOY
10	CONFIDENTIAL STATUS. THE DEPARTMENT SHALL BE SERVED IN AN
11	SUCH ACTION, AND MAY INTERVENE AS A PARTY THEREIN. Any
12	trade secrets not intended to be public when submitted to
13	the board or department shall be submitted in writing and
14	clearly marked as confidential. However, emission data
15	shall never be considered confidential for the purposes o
16	this section.
17	(2) This section does not prevent the use of records o
18	information by the board or department in compiling o
19	publishing analyses or summaries relating to the genera
20	condition of the outdoor atmosphere, if the analyses o
20	condition of the orthor amosbuerel it the quarkes of

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summaries do not identify an owner or operator or reveal

information made otherwise confidential by this section."

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