

1 Senate BILL NO. 38  
 2 INTRODUCED BY Norman Brown (REQUEST H.P.F.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."

10  
 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:

14 "69-3918. Confidentiality of records. (1) Records or  
 15 other information concerning air contaminant sources which  
 16 are furnished to or obtained by the board or department, ~~and~~  
 17 ~~which, as certified by the owner or operator, relate to~~  
 18 ~~production or sales figures or to processes or production~~  
 19 ~~unique to the owner or operator or which would tend to~~  
 20 ~~affect adversely his competitive position, are only for the~~  
 21 ~~confidential use of the board or department in the~~  
 22 ~~administration of this act, unless the owner expressly~~  
 23 ~~agrees to their publication or availability to the general~~  
 24 ~~public.~~ are a matter of public record and open to public  
 25 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.

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."

-End-

SB 38

Approved by Committee on Natural Resources

Approved by Comm. on Fish and Game

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5/13/88

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-End-

SB 38

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"

SENATE BILL NO. 38

INTRODUCED BY NORMAN, BROWN, (BY REQUEST OF THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES)

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."

BE 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:

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use. However, any information unique to the owner or operator of an air contaminant source which would, if disclosed, reveal methods or processes entitled to 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 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. 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-