

**GENERAL ASSEMBLY OF NORTH CAROLINA**

**SESSION 1993**

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**HOUSE BILL 1972\***

Short Title: Protect Trade Secret Env. Data.

(Public)

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Sponsors: Representative Richardson.

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Referred to: Environment.

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June 1, 1994

**A BILL TO BE ENTITLED**

**AN ACT TO CLARIFY THAT ALL DATA EXCEPT EFFLUENT OR EMISSION DATA IS ENTITLED TO PROTECTION AS A TRADE SECRET PURSUANT TO G.S. 132-1.2, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.**

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-215.3(a)(2) reads as rewritten:

"(2) To direct that such investigation be conducted as it may reasonably deem necessary to carry out its duties as prescribed by this Article or Article 21B of this Chapter, and for this purpose to enter at reasonable times upon any property, public or private, for the purpose of investigating the condition of any waters and the discharge therein of any sewage, industrial waste or other waste or for the purpose of investigating the condition of the air, air pollution, air contaminant sources, emissions or the installation and operation of any air-cleaning devices, and to require written statements or the filing of reports under oath, with respect to pertinent questions relating to the operation of any air-cleaning device, sewer system, disposal system or treatment works: Provided that any records, reports or information obtained under Articles 21, 21A and 21B (i) shall, in the case of effluent or emission data, be related to any applicable effluent or emission limitations, toxic, pretreatment or new source performance standards, and (ii) shall be available to the public except that upon a showing satisfactory to the Commission by any person that records, reports or

1 information or particular part thereof ~~(other than effluent or emission data~~  
2 ~~or information necessary to determine compliance with standards adopted~~  
3 ~~pursuant to Article 21B of this Chapter) thereof, other than effluent data,~~  
4 emission data, or production data, to which the Commission has access  
5 under these Articles, if made public would divulge methods or  
6 processes entitled to protection as trade secrets pursuant to G.S. 132-  
7 1.2, the Commission shall consider such record, report or information,  
8 or particular portion thereof confidential, except that such record or  
9 information may be disclosed to any officer, employee, or authorized  
10 representative of any federal or state agency if disclosure is necessary  
11 to carry out a proper function of the Department or other agency, or  
12 when relevant in any proceeding under this Article or Article 21A or  
13 Article 21B of this Chapter. The Commission shall provide for  
14 adequate notice to the party submitting the information of any decision  
15 that such information is not entitled to confidential treatment and of  
16 any decision to release information which the submitting party  
17 contends is entitled to confidential treatment. A person who is  
18 dissatisfied with a decision of the Commission to release information  
19 may commence a contested case by filing a petition under G.S. 150B-  
20 23 within 30 days after the Commission notifies the person of its  
21 decision. The information may not be released by the Commission  
22 until the Commission makes a final agency decision in the contested  
23 case or, if judicial review of the final agency decision is sought by  
24 either party, the information may not be released by the Commission  
25 until a final judicial determination has been made. No person shall  
26 refuse entry or access to any authorized representative of the  
27 Commission or Department who requests entry for purposes of  
28 inspection, and who presents appropriate credentials, nor shall any  
29 person obstruct, hamper or interfere with any such representative while  
30 in the process of carrying out his official duties."

31 Sec. 2. This act is effective upon ratification.