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PROPOSED AMENDMENT TO ASSEMBLY BILL NO. 166

PREPARED FOR SENATOR TITUS

MAY 7, 2003

NOTE: THIS DOCUMENT SHOWS PROPOSED AMENDMENTS IN CONCEPTUAL FORM. THE LANGUAGE AND ITS PLACEMENT IN THE OFFICIAL AMENDMENT MAY DIFFER.

ADD THE FOLLOWING NEW SECTIONS TO THE BILL:

Section 1. Chapter 41 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *Except as otherwise provided in this section, any portion of a settlement agreement that prohibits any party or the attorney for that party from disclosing to a third party the existence of a serious public hazard is void as against the public policy of this state and may not be enforced.*
2. *The provisions of this section do not authorize, and must not be construed to allow, the disclosure of protected information.*
3. *A party or the attorney for that party who reasonably believes that a serious public hazard exists and who discloses to a third party information concerning the serious public hazard is immune from civil or criminal liability based upon any written or oral statement made in connection with the disclosure.*
4. *As used in this section:*
 - (a) *"Physical injury" means bodily injury which:*
 - (1) *Creates a substantial risk of death; or*
 - (2) *Causes serious, permanent disfigurement or protracted loss or impairment of the function of any bodily member or organ.*
 - (b) *"Protected information" includes:*
 - (1) *Any information that is confidential pursuant to federal or state law.*
 - (2) *The amount of any settlement of a claim.*
 - (3) *A trade secret. As used in this subparagraph, "trade secret" has the meaning ascribed to it in NRS 600A.030.*
 - (c) *"Serious public hazard" means any instrumentality, device, procedure, product or condition of any instrumentality, device, procedure or product that has caused physical injury or death.*

Sec. 2. 1. The amendatory provisions of section 1 of this act apply to a settlement agreement that is executed on or after October 1, 2003.

MOCK-UP

PROPOSED AMENDMENT TO
SENATE BILL NO. 251

PREPARED FOR SENATOR TITUS
APRIL 4, 2003

PREPARED BY THE LEGAL DIVISION

NOTE: THIS DOCUMENT SHOWS PROPOSED AMENDMENTS IN CONCEPTUAL FORM. THE LANGUAGE AND ITS PLACEMENT IN THE OFFICIAL AMENDMENT MAY DIFFER.

EXPLANATION: Matter in (1) ~~blue bold italics~~ is new language in the original bill; (2) green bold italic underlining is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~green bold double strikethrough~~ is language proposed to be deleted in this amendment and (5) green bold dashed underlining is deleted language in the original bill that is proposed to be retained in this amendment.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Title 3 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to 11, inclusive, of this act.

Sec. 2. *As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 3 to 8, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 3. "Court" means a district court in this state.

Sec. 4. "Information concerning a serious public hazard" means any information concerning a serious public hazard that may be useful to members of the public in protecting themselves from physical injury or death which may result from the serious public hazard.

Sec. 5. "Person" includes a government, governmental agency or political subdivision of a government.

NOTE: The definition of physical injury contained in this proposed amendment incorporates the definition of substantial bodily harm contained in NRS 0.060.

Sec. 6. "Physical injury" means:

- ~~1. Permanent or temporary disfigurement of any part of the body; or~~
- ~~2. Impairment of any bodily function or organ of the body.~~
1. Bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement or protracted loss or impairment of the function of any bodily member or organ; or
2. Prolonged physical pain.

Sec. 7. "Protected information" includes:

1. Any information that is confidential pursuant to federal or state law.
2. A trade secret. As used in this subsection, "trade secret" has the meaning ascribed to it in NRS 600A.030.

Sec. 8. "~~Public~~ Serious public hazard" means any instrumentality, device, procedure, product or condition of any instrumentality, device, procedure or product that has caused ~~or is likely to cause~~ physical injury or death.

Sec. 9. Except as otherwise provided in section 11 of this act:

1 1. A court shall not knowingly enter an order or a judgment that has the purpose or effect of
2 concealing:

3 (a) A serious public hazard; or

4 (b) Information concerning a serious public hazard.

5 2. Any portion of an agreement or a contract that has the purpose or effect of concealing a serious
6 public hazard or information concerning a serious public hazard is void as against the public policy of
7 this state.

8
9 **Sec. 10.** 1. Any person has standing to contest an order or a judgment that allegedly has the
10 purpose or effect of concealing a serious public hazard or information concerning a serious public
11 hazard by filing a motion in the court which entered the order or judgment.

12 2. Any person has standing to contest an agreement or a contract that allegedly has the purpose or
13 effect of concealing a serious public hazard or information concerning a serious public hazard by
14 bringing an action for declaratory judgment pursuant to chapter 30 of NRS.

15
16 **Sec. 11.** 1. The provisions of this chapter must not be construed to allow the disclosure of
17 protected information.

18 2. A person may seek to prevent disclosure pursuant to this chapter of information that allegedly
19 constitutes protected information by filing with the court a motion to prevent disclosure of the
20 information. Upon the filing of such a motion, the court shall examine, in camera, the information
21 that is the subject of the motion.

22 3. If, after examining the information, the court finds that all or part of the information that is the
23 subject of the motion constitutes protected information, the court shall enter an order prohibiting
24 public disclosure of the information to the extent that it constitutes protected information.

25 **Sec. 12.** The amendatory provisions of this act apply to:

26 1. An order or judgment entered on or after the effective date of this act.

27 2. An agreement or a contract executed on or after the effective date of this act.

28
29 **Sec. 13.** This act becomes effective upon passage and approval.

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