

FIRST REGULAR SESSION  
HOUSE COMMITTEE SUBSTITUTE FOR  
**HOUSE BILL NO. 774**  
**94TH GENERAL ASSEMBLY**

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Reported from the Special Committee on General Laws February 26, 2007 with recommendation that House Committee Substitute for House Bill No. 774 Do Pass. Referred to the Committee on Rules pursuant to Rule 25(21)(f).

D. ADAM CRUMBLISS, Chief Clerk

1699L.02C

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**AN ACT**

To amend chapter 491, RSMo, by adding thereto one new section relating to the disclosure of news sources and information.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Chapter 491, RSMo, is amended by adding thereto one new section, to be known as section 491.003, to read as follows:

**491.003. 1. For purposes of this section, the following terms shall mean:**

(1) "Covered person", any person or entity whose revenue comes principally from the business of gathering, creation, or distribution of news or from charitable contributions that disseminates information by print, broadcast, cable, satellite, mechanical, photographic, electronic, or other means, and that meets one of the following three criteria:

(a) Publishes, in either print or electronic form, a newspaper, book, magazine, pamphlet, or any other periodical; or

(b) Operates a radio or television broadcast station, a network of such stations, a cable system, a satellite carrier, or a channel or programming service for any such station, network, system, or carrier; or

(c) Operates a news agency or wire service, or a news or feature syndicate.

A "covered person" shall also include: a parent, subsidiary, affiliate, employee, or contractor of a covered person if such parent, subsidiary, affiliate, employee, or contractor

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

15 derives revenue from the business of gathering, creation, or distribution of news or from  
16 charitable contributions;

17 (2) "Unpublished or nonbroadcast information", information gathered and used  
18 by a covered person to create or for the purpose of creating a news story for intended  
19 distribution and not disseminated to the public by the person from whom disclosure is  
20 sought nor by any entity described in this section, including but not limited to, any notes,  
21 photographs, tapes, film, outtakes, or other data, regardless of whether information based  
22 upon or related to such information has been disseminated.

23 2. No covered person shall be required to disclose in any federal or state  
24 proceeding, including but not limited to any criminal, civil, or administrative proceeding,  
25 the source of any published or unpublished, broadcast or nonbroadcast information  
26 obtained in the gathering, receiving, or processing of information for any covered person.  
27 No covered person shall be required to disclose in any federal or state proceeding,  
28 including but not limited to any criminal, civil, or administrative proceeding, any  
29 unpublished or nonbroadcast information obtained or prepared in gathering, receiving,  
30 or processing of information for any covered person.

31 3. If any person or entity claims the privilege provided by this section, the person  
32 or entity seeking the information may move the circuit court of the county in which the  
33 proceeding is located for an order divesting such privilege and ordering the disclosure of  
34 the information sought. The motion shall allege the name of the person or entity claiming  
35 the privilege, the entity with which such person or entity was connected at the time of  
36 obtaining the information, the specific information sought and how it is relevant to the  
37 proceedings, and the necessity of disclosure of the information.

38 4. In granting or denying divestiture of the privilege provided in this section, the  
39 court shall consider the nature of the proceedings, the merits of the claim or defense, the  
40 adequacy of any remedy otherwise available, the possibility of establishing by other means  
41 that which it is alleged the source or information will tend to prove, the public interest in  
42 protecting the confidentiality of any source as balanced against the public interest in  
43 requiring disclosure, and the relevancy of the source or information.

44 5. Any order granting divestiture of the privilege provided by this section shall  
45 issue only if the court finds in a written order or in recorded proceedings that:

46 (1) The information sought does not involve matters or details necessary in any  
47 proceeding that are required to be kept secret under federal or state law and that all other  
48 available sources of information have been exhausted; and

49 (2) Disclosure of the information is essential to the protection of the public interest  
50 involved in the proceedings.

51           **6. If the court orders divestiture of the privilege provided by this section, it shall**  
52 **also order the person to disclose the information it has determined must be disclosed,**  
53 **subject to any protective conditions the court may deem necessary or appropriate.**

54           **7. The privilege provided by this section shall remain in effect during the pendency**  
55 **of any appeal.**

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