Exhibit No. 1
Date 2-1-05
Bill No. SB 196

Amendments to Senate Bill No. 196
1st Reading Copy

Requested by Senator Mike Wheat

For the Senate Judiciary Committee

Prepared by Valencia Lane
January 28, 2005 (3:13pm)

1. Title, lines 6 through 8.
Following: "HAZARD" on line 6
Strike: remainder of line 6 through "HAZARD" on line 8

2. Page 1, line 16.
Following: "means"
Strike: remainder of line 16
Insert: "a"

3. Page 1, line 17.
Following: the first "instrument,"
Strike: "procedure,"
Following: the first "or"
Insert: "manufactured"
Following: the second "instrument,"
Strike: "procedure,"
Following: the second "or"
Insert: "manufactured"

4. Page 1, line 18.
Following: "caused"
Strike: "or is likely to cause"

5. Page 1, line 20.
Following: "hazard"
Strike: "or any information that is relevant to the protection of"
Insert: "that endangers"

6. Page 1, line 23 through line 24.
Following: "hazard" on line 23
Strike: remainder of line 23 through "of" on line 24
Insert: "that endangers"

(OVER)

7. Page 2, line 1 through line 4.
Following: "27-6-103"
Strike: ":" on line 1 through "care" on line 4

8. Page 2, line 12 through line 13.
Following: "hazard" on line 12
Strike: remainder of line 12 through "hazard" on line 13

- END -

1 S BILL NO. 196

2 INTRODUCED BY _____
(Primary Sponsor)

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT ADOPTING THE "GUS BARBER ANTISECRECY ACT";
5 PROHIBITING A COURT FROM ENTERING A JUDGMENT OR ORDER THAT CONCEALS A PUBLIC
6 HAZARD ~~OR CONCEALS INFORMATION OR MATERIALS THAT WOULD BE USEFUL TO MEMBERS OF~~
7 ~~THE PUBLIC IN PROTECTING THEMSELVES FROM INJURY THAT MAY RESULT FROM THE PUBLIC~~
8 ~~HAZARD~~; PROVIDING CERTAIN EXCEPTIONS; PROHIBITING AGREEMENTS OR CONTRACTS THAT
9 CONCEAL INFORMATION; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

10

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

12

13 NEW SECTION. **Section 1. Concealment of public hazards prohibited -- concealment of**
14 **information related to settlement or resolution of civil suits prohibited.** (1) This section may be cited as the
15 "Gus Barber Antisecrecy Act".

16 (2) As used in this section, "public hazard" means ~~an instrumentality, including but not limited to any~~ a
17 device, instrument, ~~procedure,~~ manufactured or product, or a condition of a device, instrument, ~~procedure,~~ manufactured or product, that has
18 caused ~~or is likely to cause~~ injury, as defined in 27-1-106.

19 (3) Except as provided in this section, a court may not enter an order or judgment that has the purpose
20 or effect of concealing a public hazard that endangers ~~or any information that is relevant to the protection of~~ public health or
21 safety.

22 (4) Any portion of a court order or judgment or of a written agreement or contract entered into pursuant
23 to civil litigation that has the purpose or effect of concealing a public hazard ~~or any information that is relevant~~
24 ~~to the protection of~~ that endangers public health or safety is contrary to public policy, is void, and may not be enforced.

25 (5) A party to civil litigation may not request, as a condition to the production of discovery, that another
26 party stipulate to an order that would violate this section.

27 (6) This section does not apply to:

28 (a) trade secrets, as defined in 30-14-402, that are not pertinent to public hazards and that are protected
29 pursuant to Title 30, chapter 14, part 4;

30 (b) other information that is confidential under state or federal law; or

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1 (c) a health care provider, as defined in 27-6-103~~:~~

2 ~~(i) developing or using professionally monitored experimental or investigational procedures; or~~

3 ~~(ii) providing care and treatment to patients in accordance with the applicable professional standards~~

4 ~~of care~~.

5 (7) Any affected person, including but not limited to a representative of the news media, has standing
6 to contest a court order or judgment or an agreement or contract that violates this section. A person may contest
7 a court order or judgment or an agreement or contract that violates this section by motion in the court that
8 entered the order or judgment or by bringing a declaratory judgment action pursuant to Title 27, chapter 8.

9 (8) Upon motion and good cause shown by a party attempting to prevent disclosure of information or
10 materials that have not previously been disclosed, including but not limited to alleged trade secrets, the court
11 shall examine the disputed information or materials in camera. If the court finds that the information or materials
12 or portions of the information or materials consist of information concerning a public hazard ~~or information that~~
13 ~~may be useful to members of the public in protecting themselves from injury that may result from a public hazard~~,
14 the court shall allow disclosure of the information or materials. If allowing disclosure, the court shall allow
15 disclosure of only that portion of the information or materials necessary or useful to the public concerning the
16 public hazard.

17

18 NEW SECTION. **Section 2. Codification instruction.** [Section 1] is intended to be codified as an
19 integral part of Title 2, chapter 6, part 1, and the provisions of Title 2, chapter 6, part 1, apply to [section 1].

20

21 NEW SECTION. **Section 3. Effective date.** [This act] is effective on passage and approval.

22 - END -