
Senate Fiscal Agency
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SFA**BILL ANALYSIS**

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House Bill 5312 (Substitute H-2 as reported without amendment)

Sponsor: Representative Andrew Richner

House Committee: Commerce

Senate Committee: Economic Development, International Trade and Regulatory Affairs

CONTENT

The bill would enact the "Uniform Trade Secrets Act" to provide for injunctive and monetary relief, including the payment of a royalty, for the misappropriation of trade secrets. The proposed Act would displace conflicting State law providing civil remedies for misappropriation of a trade secret, and would repeal Public Act 329 of 1968, which provides for a criminal penalty for the theft or embezzlement of an item in order to withhold the control of a trade secret. ("Trade secret" would mean information, including a formula, pattern, compilation, program, device, method, technique, or process, that derived independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who could obtain economic value from its disclosure or use; and was the subject of efforts that were reasonable under the circumstances to maintain its secrecy.)

In addition, in a misappropriation action, the court could award reasonable attorney's fees to the prevailing party, and would have to preserve the secrecy of an alleged trade secret by reasonable means. The action would have to be brought within three years after the misappropriation was discovered or, by the exercise of due diligence, should have been discovered.

The bill states that the proposed Act would take effect October 1, 1998, and would not apply to misappropriation occurring before the effective date. With respect to a continuing misappropriation that began before the effective date, the Act would not apply to the continuing misappropriation occurring after that date.

Legislative Analyst: N. Nagata

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Date Completed: 11-30-98

Fiscal Analyst: B. Bowerman