

CHAPTER.....

AN ACT relating to trade secrets; providing that a trade secret which is misappropriated and posted on the Internet remains a trade secret under certain circumstances; authorizing a court to issue an order or injunction requiring the immediate removal of a misappropriated trade secret from the Internet; and providing other matters properly relating thereto.

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

Section 1. Chapter 600A of NRS is hereby amended by adding thereto a new section to read as follows:

A trade secret that is misappropriated and posted, displayed or otherwise disseminated on the Internet shall be deemed to remain a trade secret as defined in NRS 600A.030 and not to have “ceased to exist” for the purposes of subsection 1 of NRS 600A.040 if:

1. The owner, within a reasonable time after discovering that the trade secret has been misappropriated and posted, displayed or otherwise disseminated on the Internet, obtains an injunction or order issued by a court requiring that the trade secret be removed from the Internet; and

2. The trade secret is removed from the Internet within a reasonable time after the injunction or order requiring removal of the trade secret is issued by the court.

Sec. 2. NRS 600A.040 is hereby amended to read as follows:

600A.040 1. Actual or threatened misappropriation may be enjoined. Upon application to the court, an injunction must be terminated when the trade secret has ceased to exist, but the injunction may be continued for an additional reasonable period of time to eliminate commercial or other advantage that otherwise would be derived from the misappropriation.

2. In exceptional circumstances, an injunction may condition future use upon payment of a reasonable royalty for no longer than the period of time for which use could have been prohibited. Exceptional circumstances include a material and prejudicial change of position before acquiring knowledge or reason to know of misappropriation that renders a prohibitive injunction inequitable.

3. In appropriate circumstances, the court may order affirmative acts to protect a trade secret. *As used in this subsection, “affirmative acts” includes, without limitation, issuing an injunction or order requiring that a trade secret which has been misappropriated and posted, displayed or otherwise disseminated on the Internet be removed from the Internet immediately.*