

SENATE BILL NO. 558—COMMITTEE ON GOVERNMENT AFFAIRS

MARCH 26, 2001

Referred to Committee on Commerce and Labor

SUMMARY—Strengthens protection of patents and trade secrets. (BDR 52-1480)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to information; providing additional protection for trade secrets; defining a Nevada employer's right to intellectual property created by his employee; providing remedies for unauthorized use of patented material owned by Nevada businesses and residents; and providing other matters properly relating thereto.

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

- 1 **Section 1.** Chapter 600 of NRS is hereby amended by adding thereto
2 the provisions set forth as sections 2 to 5, inclusive, of this act.
3 **Sec. 2. 1. *For the purposes of sections 2 to 5, inclusive, of this act,***
4 ***a business is deemed to be a "Nevada business" if:***
5 ***(a) It has its home office in Nevada;***
6 ***(b) It is not controlled in whole or in part by one or more out-of-state***
7 ***business entities; and***
8 ***(c) At least 50 percent of its full-time and part-time employees are***
9 ***Nevada residents, when the employees of business entities that are***
10 ***controlled in whole or in part by the Nevada business are included in the***
11 ***calculation as well as the employees of any business entity that controls***
12 ***the Nevada business in whole or in part.***
13 **2. *For the purposes of subsection 1, a natural person shall be***
14 ***deemed to be a Nevada resident when he has complied with the standard***
15 ***set forth in NRS 10.155. A natural person is rebuttably presumed to be a***
16 ***Nevada resident if he evidences any one of the following indications of***
17 ***residency:***
18 ***(a) A Nevada voter registration card issued pursuant to NRS 293.517***
19 ***that identifies his residential address as a location within Nevada,***
20 ***whereby residency is presumed to have begun on the date of registration;***
21 ***(b) A Nevada driver's license that identifies his residential address as***
22 ***a location within Nevada, whereby residency is presumed to have begun***
23 ***on the date the license was issued;***



1 (c) A declaration of domicile in Nevada prepared pursuant to NRS
2 41.191, whereby residency is presumed to have begun on the date the
3 declaration was signed under oath pursuant to NRS 41.195; or

4 (d) Any other form of reliable evidence of one or more continuous
5 places of residence in Nevada for a period of at least 1 year
6 notwithstanding any temporary or transitory absences from this state,
7 whereby residency is presumed to have begun at the beginning of the
8 period of residence in Nevada.

9 3. Any challenge to a presumption of residency established pursuant
10 to subsection 2 must be made by clear and convincing evidence.

11 4. For the purposes of this section, any business whose status as a
12 Nevada business is challenged, or any natural person whose status as a
13 Nevada resident is challenged, may have the issue adjudicated by a court
14 of competent jurisdiction in Nevada.

15 **Sec. 3.** A Nevada business has exclusive rights to any patentable
16 invention or technology developed by an employee of the Nevada
17 business during the course of the employment that relates directly to
18 work performed during the course of the employment.

19 **Sec. 4.** 1. A person or business who uses technology claimed in a
20 patent issued by the United States Patent and Trademark Office to a
21 Nevada business or Nevada resident is presumed to benefit from the
22 patented technology. The benefit is presumed to begin at the time the
23 person or business first uses the technology during the term of the patent.

24 2. A constructive contract arises between the Nevada business or
25 Nevada resident holding a patent issued by the United States Patent and
26 Trademark Office and a person who benefits from the patented
27 technology during the term of the patent and at the time the person first
28 uses the technology. The constructive contract remains in effect
29 throughout the period of use during the term of the patent.

30 3. Unless the Nevada business or Nevada resident holding the patent
31 has licensed the user to use the patented technology, the user is liable for
32 damages in the amount of a reasonable royalty as if a license had existed
33 from the time the user first used the patented technology.

34 **Sec. 5.** 1. A person or business is liable for intentional interference
35 with the economic expectations of a Nevada business or Nevada resident
36 holding a patent issued by the United States Patent and Trademark
37 Office if:

38 (a) The patent has not expired;

39 (b) The person or business that is liable was put on notice that the
40 technology the person or business was using was patented by the patent;
41 and

42 (c) The person or business that is liable continued to use the patented
43 technology after the notice of the patent was imparted.

44 2. Notice that the technology is patented may be imparted by actual
45 notice, the recording of the patent in the office of a county recorder in
46 this state or other means that would inform a reasonable person.

47 3. Harm is presumed to have occurred as a result of the conduct
48 described in paragraphs (b) and (c) of subsection 1, without further
49 proof.



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1 **Sec. 6.** Chapter 600A of NRS is hereby amended by adding thereto a
2 new section to read as follows:

3 *The owner of a trade secret is presumed to make a reasonable effort to*
4 *maintain its secrecy if the word “Confidential” or another indication of*
5 *secrecy is marked on the face of the document containing the trade*
6 *secret.*

END



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