

1 HB102
2 116408-2
3 By Representative Williams (J)
4 RFD: Judiciary
5 First Read: 12-JAN-10
6 PFD: 01/06/2010
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1 "a. Such injunctive and other equitable relief as
2 may be appropriate with respect to any actual or threatened
3 misappropriation of a trade secret,

4 "b. Recovery of any profits and other benefits
5 conferred by the misappropriation that are attributable to the
6 misappropriation (In establishing the misappropriator's
7 profits, the complainant is required to present proof only of
8 the misappropriator's gross revenue, and the misappropriator
9 is required to present proof of his or her deductible expenses
10 and the elements of profit attributable to factors other than
11 the trade secret.), and

12 "c. The actual damages suffered as a result of the
13 misappropriation;

14 "(2) Reasonable attorney's fees to the prevailing
15 party if:

16 "a. A claim of actual or threatened misappropriation
17 is made or resisted in bad faith,

18 "b. A motion to terminate an injunction is made or
19 resisted in bad faith, or

20 "c. Willful and malicious misappropriation exists;
21 and

22 "(3) Exemplary damages in an amount not to exceed
23 the actual award made under subdivision (1), but not less than
24 ~~\$5,000~~ ten thousand dollars (\$10,000), if willful and
25 malicious misappropriation exists.

26 "(b) In addition to the civil damages and penalties
27 provided in subsection (a), a person who intentionally

1 remunerates or recruits a third person for actual or
2 threatened misappropriation of a trade secret and any person
3 who misappropriates a trade secret shall be guilty of a Class
4 C felony. In any criminal prosecution under this subsection
5 against an employer based on misappropriation of a trade
6 secret by its employee, the term "intentionally" shall mean
7 that the employer remunerated an employee with the intent that
8 the employee would misappropriate the trade secrets of
9 another, the another. The trade secret that was
10 misappropriated shall be clearly identified, and mere-
11 identified. Mere acceptance or receipt by an employer of a
12 trade secret of another, by itself, shall be insufficient to
13 prove criminal liability. Each act committed under this
14 subsection shall constitute a separate offense."

15 Section 2. Although this bill would have as its
16 purpose or effect the requirement of a new or increased
17 expenditure of local funds, the bill is excluded from further
18 requirements and application under Amendment 621, now
19 appearing as Section 111.05 of the Official Recompilation of
20 the Constitution of Alabama of 1901, as amended, because the
21 bill defines a new crime or amends the definition of an
22 existing crime.

23 Section 3. This act shall become effective on the
24 first day of the third month following its passage and
25 approval by the Governor, or its otherwise becoming law.

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House of Representatives

Read for the first time and re-
ferred to the House of Representa-
tives committee on Judiciary 12-JAN-10

Read for the second time and placed
on the calendar with 1 substitute
and 14-JAN-10

Read for the third time and passed
as amended 19-JAN-10

Yeas 88, Nays 0, Abstains 0

Greg Pappas
Clerk