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6 **Section 3.** Section 30-14-408, MCA, is amended to read:

7 "**30-14-408. Effect on other law.** (1) ~~This~~ Except as provided in subsection (2), this part displaces
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17 **NEW SECTION. Section 4. Applicability.** With respect to a continuing misappropriation that began
 18 prior to [the effective date of this act], [this act] does not apply to the continuing misappropriation that
 19 occurs after [the effective date of this act].

20 -END-

APPROVED BY COMMITTEE
ON BUSINESS AND LABOR

House BILL NO. 454

INTRODUCED BY Stacy

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING AND UPDATING THE UNIFORM TRADE SECRETS ACT; REVISING INJUNCTIVE RELIEF IN EXCEPTIONAL CIRCUMSTANCES; REVISING THE CIRCUMSTANCES FOR THE RECOVERY OF DAMAGES; CLARIFYING THE IMPACT ON OTHER LAW; AMENDING SECTIONS 30-14-403, 30-14-404, AND 30-14-408, MCA; AND PROVIDING AN APPLICABILITY PROVISION."

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

Section 1. Section 30-14-403, MCA, is amended to read:

"30-14-403. Injunctive relief -- royalty. (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 in order to eliminate commercial advantage that otherwise would be derived from the misappropriation.

(2) ~~If the court determines that it would be unreasonable to prohibit future use~~ In exceptional circumstances, an injunction may condition future use upon payment of a reasonable royalty for no longer than the period of time ~~the~~ for which use could have been prohibited. Exceptional circumstances include but are not limited to a material and prejudicial change of position prior to acquiring knowledge or reason to know of misappropriation that renders a prohibitive injunction inequitable.

(3) In appropriate circumstances, affirmative acts to protect a trade secret may be compelled by court order."

Section 2. Section 30-14-404, MCA, is amended to read:

"30-14-404. Damages. (1) ~~In addition to or in lieu of injunctive relief~~ Except to the extent that a material and prejudicial change of position prior to acquiring knowledge or reason to know of misappropriation renders a monetary recovery inequitable, a complainant ~~may~~ is entitled to recover damages for the actual loss caused by misappropriation. A complainant also may recover for Damages may include both the actual loss caused by misappropriation and the unjust enrichment caused by misappropriation that

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