

ALABAMA UNIFORM TRADE SECRETS ACT (§§ 8-27-1 to 8-27-6)

Section 8-27-1 - Short title.

This chapter may be cited as the "Alabama Trade Secrets Act."

Section 8-27-2 - Definitions.

As used in this chapter, the following terms shall have the following meanings, respectively, unless the context clearly indicates otherwise:

(1) TRADE SECRET. A "trade secret" is information that:

- a. Is used or intended for use in a trade or business;
- b. Is included or embodied in a formula, pattern, compilation, computer software, drawing, device, method, technique, or process;
- c. Is not publicly known and is not generally known in the trade or business of the person asserting that it is a trade secret;
- d. Cannot be readily ascertained or derived from publicly available information;
- e. Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy; and
- f. Has significant economic value.

(2) IMPROPER MEANS. "Improper means" are means such as:

- a. Theft;
- b. Bribery;
- c. Misrepresentation;
- d. Inducement of a breach of confidence;
- e. Trespass; or



f. Other deliberate acts taken for the specific purpose of gaining access to the information of another by means such as electronic, photographic, telescopic or other aids to enhance normal human perception, where the trade secret owner reasonably should be able to expect privacy.

(3) PERSON. A "person" is a natural person, corporation, business trust, estate, trust, partnership, association, joint venture, government, governmental subdivision or agency, or any other legal or commercial entity.

Section 8-27-3 - Misappropriation.

A person who discloses or uses the trade secret of another, without a privilege to do so, is liable to the other for misappropriation of the trade secret if:

(1) That person discovered the trade secret by improper means;

(2) That person's disclosure or use constitutes a breach of confidence reposed in that person by the other;

(3) That person learned the trade secret from a third person, and knew or should have known that (i) the information was a trade secret and (ii) that the trade secret had been appropriated under circumstances which violate the provisions of (1) or (2), above; or

(4) That person learned the information and knew or should have known that it was a trade secret and that its disclosure was made to that person by mistake.



Section 8-27-4 - Remedies for actual or threatened misappropriation; intentional remuneration of a third party for misappropriation.

(a) The remedies available for actual or threatened misappropriation of a trade secret are:

(1) To the extent that they are not duplicative:

a. Such injunctive and other equitable relief as may be appropriate with respect to any actual or threatened misappropriation of a trade secret,

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

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

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

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

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

c. Willful and malicious misappropriation exists; and

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

(b) In addition to the civil damages and penalties provided in subsection (a), a person who intentionally remunerates or recruits a third person for actual or threatened misappropriation of a trade secret and any person who misappropriates a trade secret shall be guilty of a Class C felony. In any criminal prosecution under this subsection against an employer based on misappropriation of a trade secret by its employee, the term intentionally shall mean that the employer remunerated an employee with the intent that the employee would misappropriate the trade secrets of another. The trade secret that was misappropriated shall be clearly identified. Mere acceptance or



receipt by an employer of a trade secret of another, by itself, shall be insufficient to prove criminal liability. Each act committed under this subsection shall constitute a separate offense.

Section 8-27-5 - Statute of limitation.

An action for misappropriation must be brought within two years after the misappropriation is discovered or by the exercise of reasonable diligence should have been discovered.

Section 8-27-6 - Effect on other law.

Those provisions of this chapter that are inconsistent with the common law of trade secrets supersede the common law; otherwise, this chapter should be construed to be consistent with the common law of trade secrets.

