

CHAPTER 1201**TRADE SECRETS***S.F. 2395*

AN ACT relating to the protection of trade secrets and providing remedies.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. NEW SECTION. 550.1 SHORT TITLE.

This chapter shall be known and may be cited as the "Uniform Trade Secrets Act".

Sec. 2. NEW SECTION. 550.2 DEFINITIONS.

As used in this chapter, unless the context otherwise requires:

1. "Improper means" means theft, bribery, misrepresentation, breach or inducement of a breach of a duty to maintain secrecy, or espionage, including but not limited to espionage through an electronic device.

2. "Knows" or "knowledge" means that a person has actual knowledge of information or a circumstance or that the person has reason to know of the information or circumstance.

3. "Misappropriation" means doing any of the following:

a. Acquisition of a trade secret by a person who knows that the trade secret is acquired by improper means.

b. Disclosure or use of a trade secret by a person who uses improper means to acquire the trade secret.

c. Disclosure or use of a trade secret by a person who at the time of disclosure or use, knows that the trade secret is derived from or through a person who had utilized improper means to acquire the trade secret.

d. Disclosure or use of a trade secret by a person who at the time of disclosure or use knows that the trade secret is acquired under circumstances giving rise to a duty to maintain its secrecy or limit its use.

e. Disclosure or use of a trade secret by a person who at the time of disclosure or use knows that the trade secret is derived from or through a person who owes a duty to maintain the trade secret's secrecy or limit its use.

f. Disclosure or use of a trade secret by a person who, before a material change in the person's position, knows that the information is a trade secret and that the trade secret has been acquired by accident or mistake.

4. "Trade secret" means information, including but not limited to a formula, pattern, compilation, program, device, method, technique, or process that is either of the following:

a. Derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by a person able to obtain economic value from its disclosure or use.

b. Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

Sec. 3. NEW SECTION. 550.3 INJUNCTIVE RELIEF.

1. The owner of a trade secret may petition the district court to enjoin an actual or threatened misappropriation. Upon application to the district court, an injunction shall be terminated when the trade secret has ceased to exist. However, the injunction may be continued for an additional reasonable period of time in order to eliminate a commercial advantage that otherwise would be derived from the misappropriation.

2. In exceptional circumstances, an injunction may condition future use of a trade secret upon payment of a reasonable royalty. The payment of a royalty shall continue for a period no longer than the period for which use of the trade secret may be prohibited. Exceptional circumstances include, but are not limited to, a material and prejudicial change of position of the person prior to acquiring knowledge of a misappropriation that renders a prohibitive injunction inequitable.

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

Sec. 4. NEW SECTION. 550.4 DAMAGES.

1. Except to the extent that a material and prejudicial change of a person's position occurs prior to acquiring knowledge of a misappropriation and renders a monetary recovery inequitable, an owner of a trade secret is entitled to recover damages for the misappropriation. Damages may include the actual loss caused by the misappropriation, and the unjust enrichment caused by the misappropriation which is not taken into account in computing the actual loss. In lieu of damages measured by any other methods, the damages caused by misappropriation may be measured by imposition of liability for a reasonable royalty for a person's unauthorized disclosure or use of a trade secret.

2. If a person commits a willful and malicious misappropriation, the court may award exemplary damages in an amount not exceeding twice the award made under subsection 1.

Sec. 5. NEW SECTION. 550.5 DEFENSE — CONSENT OF DISCLOSURE.

In an action for injunctive relief or damages against a person under this chapter, it shall be a complete defense that the person disclosing a trade secret made the disclosure with the implied or express consent of the owner of the trade secret.

Sec. 6. NEW SECTION. 550.6 ATTORNEY FEES.

The court may award actual and reasonable attorney fees to the prevailing party in an action under this chapter if any the following is applicable:

1. A claim of misappropriation is made in bad faith.
2. A motion to terminate an injunction is made or resisted in bad faith.
3. A person acts willfully and maliciously in the misappropriation.

Sec. 7. NEW SECTION. 550.7 PRESERVATION OF SECRECY.

In an action brought under this chapter, a court shall preserve the secrecy of an alleged trade secret by reasonable means, including but not limited to granting protective orders in connection with discovery proceedings, holding in-camera hearings, sealing the records of the action, and ordering a person involved in the litigation not to disclose an alleged trade secret without prior court approval.

Sec. 8. NEW SECTION. 550.8 STATUTE OF LIMITATIONS.

An action for misappropriation under this chapter must be brought within three years after the misappropriation is discovered or should have been discovered by the exercise of reasonable diligence. For purposes of this section, a continuing misappropriation constitutes a single claim.

Approved April 27, 1990

CHAPTER 1202

CHARITABLE ORGANIZATION REGULATION

S.F. 2412

AN ACT relating to the regulation of certain charitable organizations, providing a fee, and providing a penalty.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 122.1, Code Supplement 1989, is amended by striking the section and inserting in lieu thereof the following: