



Better Protection for Trade Secrets **New Law Expands Trade Secret Protection & Whistleblower Rights**

Trade secret theft can be devastating to a business. A trade secret is generally defined as “information that derives economic value from being secret and is the subject of reasonable efforts to maintain its secrecy.” Any business that has or handles trade secrets should be aware of the Defend Trade Secrets Act of 2016 ([DTSA](#)), which took effect on May 11, 2016. This law creates a federal civil cause of action for theft of trade secrets on or after that date, whether products, services, or electronically stored information, to be used or intended to be used in interstate commerce. It also grants civil and criminal immunity to individuals who disclose a trade secret to government officials or attorneys for the purpose of reporting or investigating a suspected violation of law.

The DTSA gives a business that has experienced a misappropriation of its trade secrets traditional remedies, including injunctive relief, compensatory and exemplary damages, and attorneys’ fees. However, to be eligible to pursue exemplary damages and attorneys’ fees, a business must notify its employees (including contractors and consultants) of their whistleblower immunity rights under the DTSA. This notice should be in any trade secret-related agreement made with an employee on or after May 12, 2016, including amendments to pre-existing agreements. Failure to do so will preclude a business from recovering exemplary damages or attorneys’ fees from an employee that misappropriates a trade secret.

If you would like to discuss how to modify your agreements to comply with the DTSA, please contact [Michael Weiner](#).

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