



# LAWS OF ALASKA

1988

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**Source**

CSSB 15(Jud)

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**Chapter No.**

103

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**AN ACT**

Relating to trade secrets.

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**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

THE ACT FOLLOWS ON PAGE 1, LINE 8.

Approved by the Governor: June 4, 1988  
Actual Effective Date: September 2, 1988

AN ACT

Relating to trade secrets.

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\* Section 1. AS 45.50 is amended by adding new sections to read:

ARTICLE 8. ALASKA UNIFORM TRADE SECRETS ACT.

Sec. 45.50.910. INJUNCTIVE RELIEF FOR MISAPPROPRIATION OF TRADE SECRETS. (a) A court may enjoin actual or threatened misappropriation of trade secrets. Upon application to the court, an injunction shall 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.

(b) If the court determines that it would be unreasonable to prohibit future use of a trade secret, an injunction may condition future use upon payment of a reasonable royalty for no longer than the period of time the use could have been prohibited.

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

Sec. 45.50.915. DAMAGES. (a) In addition to or in lieu of injunctive relief, a complainant may recover damages for the actual loss caused by misappropriation. A complainant also may recover for the unjust enrichment caused by misappropriation that is not taken into account in computing damages for actual loss.

(b) If wilful and malicious misappropriation exists, the court may award exemplary damages in an amount not exceeding twice the

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1 damages awarded under (a) of this section.

2 Sec. 45.50.920. PRESERVATION OF SECRECY. In an action under  
3 AS 45.50.910 - 45.50.945, a court shall preserve the secrecy of an  
4 alleged trade secret by reasonable means, which may include granting  
5 protective orders in connection with discovery proceedings, holding  
6 in-camera hearings, sealing the records of the action, and ordering  
7 any person involved in the litigation not to disclose an alleged trade  
8 secret without prior court approval.

9 Sec. 45.50.925. LIMITATION OF ACTIONS. An action for misappropriation  
10 must be brought within three years after the misappropriation  
11 is discovered or by the exercise of reasonable diligence should have  
12 been discovered. For the purposes of this section, a continuing  
13 misappropriation constitutes a single claim.

14 Sec. 45.50.930. EFFECT ON OTHER LAWS. (a) AS 45.50.910 -  
15 45.50.945 displace conflicting tort, restitutionary, and other state  
16 laws pertaining to civil liability for misappropriation of a trade  
17 secret.

18 (b) AS 45.50.910 - 45.50.945 do not affect

19 (1) contractual or other civil liability or relief that is  
20 not based upon misappropriation of a trade secret; or

21 (2) criminal liability for misappropriation of a trade  
22 secret.

23 (c) AS 45.50.910 - 45.50.945 do not apply to investigations or  
24 actions by the attorney general under AS 45.50.471 - 45.50.561 (unfair  
25 trade practices and consumer protection) or under AS 45.50.562 -  
26 45.50.596 (restraint of trade).

27 Sec. 45.50.935. UNIFORMITY OF APPLICATION AND CONSTRUCTION.  
28 AS 45.50.910 - 45.50.945 shall be applied and construed to make the  
29 law uniform with respect to trade secrets among states enacting

1 similar provisions.

2 Sec. 45.50.940. DEFINITIONS. In AS 45.50.910 - 45.50.945,  
3 unless the context otherwise requires,

4 (1) "improper means" includes theft, bribery, misrepresenta-  
5 tion, breach or inducement of a breach of a duty to maintain secre-  
6 cy, or espionage through electronic or other means;

7 (2) "misappropriation" means

8 (A) acquisition of a trade secret of another by a  
9 person who knows or has reason to know that the trade secret was  
10 acquired by improper means; or

11 (B) disclosure or use of a trade secret of another  
12 without express or implied consent by a person who

13 (i) used improper means to acquire knowledge of  
14 the trade secret; or

15 (ii) at the time of disclosure or use, knew or had  
16 reason to know that knowledge of the trade secret was de-  
17 rived from or through a person who had utilized improper  
18 means to acquire it or who owed a duty to the person seeking  
19 relief to maintain its secrecy or limit its use, or was  
20 acquired under circumstances giving rise to a duty to main-  
21 tain its secrecy or limit its use; or

22 (iii) before a material change of the person's  
23 position, knew or had reason to know that it was a trade  
24 secret and that knowledge of it had been acquired by acci-  
25 dent or mistake.

26 (3) "trade secret" means information that

27 (A) derives independent economic value, actual or  
28 potential, from not being generally known to, and not being  
29 readily ascertainable by proper means by, other persons who can

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1           obtain economic value from its disclosure or use, and

2                       (B) is the subject of efforts that are reasonable  
3           under the circumstances to maintain its secrecy.

4           Sec. 45.50.945. SHORT TITLE. AS 45.50.910 - 45.50.945 may be  
5           cited as the Alaska Uniform Trade Secrets Act.  
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