



WHY STATES SHOULD ADOPT THE UNIFORM TRADE SECRETS ACT

In these times of fast-breaking and highly profitable technological advances – the kind that spur intense competition and can rapidly stimulate a region's economic growth – no state can afford to be without modern comprehensive law protecting trade secrets.

Trade secrets law must be sophisticated enough to keep pace with the development of technology in the private sector, yet simple enough to be of broad use. The **Uniform Trade Secrets Act (UTSA)**, completed by the Uniform Law Commissioners in 1979 and amended in 1985, meets both these requirements. It was the first comprehensive effort to codify the law of trade secrets protection, incorporating the major common law principles while filling gaps left by the courts. Since its promulgation, it has been enacted in 47 states plus the District of Columbia, Puerto Rico, and the U.S. Virgin Islands. It provides real remedies, where none may have existed before. Moreover, in a field of law that has been the specialist's domain, the act is sufficiently clear to be readily interpreted by any lawyer representing a client in trade secret litigation.

States without the UTSA now depend on the common law to resolve disputes over misappropriation of trade secrets. This creates great uncertainty for industry, particularly for companies that conduct business in more than one state, since the courts in different jurisdictions have made conflicting decisions on trade secret issues. Additionally, some important issues have never been adequately addressed in the common law of the courts.

CLARIFYING AND SIMPLIFYING THE LAW: Every state will benefit from the simplicity of the Uniform Trade Secrets Act. Under the common law, some fundamental concepts are disturbingly unclear – including the precise definition of a "trade secret," and the question of rights and equitable relief for businesses whose secrets have been improperly obtained and used. The uniform act clarifies rights and remedies, making the law comprehensible to a far broader segment of the legal profession. Thus, private industry should find it easier, and ultimately less expensive, to obtain competent legal assistance in protecting trade secrets.

THE UTSA PROVIDES UNIFORMITY: Litigation over trade secrets frequently involves parties from more than one state. Variations in state law have created confusion about which law should be applied, and encourage litigants to "forum shop" – looking for the most favorable jurisdiction. Adoption of the UTSA by all states would eliminate these problems.

Adoption of the UTSA will also facilitate companies that wish to expand their operations into new states. The common law has always required businesses to take strict precautions to safeguard any information they expect to be legally treated as a "trade secret." While the UTSA does not relax the common law requirements, uniform adoption of the act would assure businesses that their efforts will be tested against the same measure of care in every state.