

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 83rd General Assembly
3 Regular Session, 2001

As Engrossed: H4/5/01
A Bill

HOUSE BILL 2273

4
5 By: Representative Bookout
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8 **For An Act To Be Entitled**

9 AN ACT TO AMEND VARIOUS PROVISIONS OF THE
10 ARKANSAS TRADE SECRETS ACT; AND FOR OTHER
11 PURPOSES.
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13 **Subtitle**

14 TO AMEND VARIOUS PROVISIONS OF THE
15 ARKANSAS TRADE SECRETS ACT.
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18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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20 SECTION 1. Arkansas Code 4-75-601(4) is amended to read as follows:

21 (4) "Trade secret" means technical, financial, or other information,
22 including a formula, pattern, compilation, program, device, method,
23 technique, ~~or~~ process, list or information regarding customers or suppliers,
24 pricing schemes, business plans or strategies that:

25 (A) ~~Derives independent~~ is sufficiently secret to derive
26 economic value, actual or potential, from not being generally known to, and
27 not being readily ascertainable by proper means by, other persons who can
28 obtain economic value from its disclosure or use; and

29 (B) Is the subject of efforts that are reasonable under
30 the circumstances to maintain its secrecy; provided, however, that the
31 existence of a trade secret is not negated merely because an employee or
32 other person has acquired the trade secret without express or specific notice
33 that it is a trade secret if, under all the circumstances, the employee or
34 other person knows or has reason to know that the owner intends or expects
35 the secrecy of the type of information comprising the trade secret to be
36 maintained.

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SECTION 2. Arkansas Code 4-75-604 is amended to read as follows:

4-75-604. Injunctive relief.

(a) Actual or threatened misappropriation may be *enjoined and, in that regard, may be found sufficient to support a finding by the court that the complainant has suffered or would suffer reputable harm.*

(b) Upon application to the 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 commercial advantage that otherwise would be derived from the misappropriation.

(c) If the court determines that it would be unreasonable to prohibit future use, 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.

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

SECTION 3. Arkansas Code 4-75-606 is amended to read as follows:

4-75-606. Damages.

(a) In addition to or in lieu of injunctive relief, a complainant may recover damages for the actual loss caused by misappropriation.

(b) A complainant also may recover for the unjust enrichment caused by misappropriation that is not taken into account in computing damages for actual loss.

(c) In no event shall a contract be required in order to maintain an action or to recover damages for misappropriation of a trade secret.

SECTION 4. EMERGENCY CLAUSE. It is found and determined by the General Assembly that existing provisions of the Arkansas Trade Secrets Act regarding damages do not adequately deter the theft of trade secrets and should be enhanced in order to discourage the conduct prohibited by the act and that the provisions set forth herein will more fully protect the trade secrets of industry in the State of Arkansas. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on

1 the date of its approval by the Governor. If the bill is neither approved
2 nor vetoed by the Governor, it shall become effective on the expiration of
3 the period of time during which the Governor may veto the bill. If the bill
4 is vetoed by the Governor and the veto is overridden, it shall become
5 effective on the date the last house overrides the veto.

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/s/ Bookout