

Is Theft of Trade Secrets a Crime in Arkansas?



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Is theft of trade secrets a crime in Arkansas? Yes. Under Arkansas Code Annotated Section 5-36-107, the Arkansas Penal Code establishes that theft of trade secrets is a Class A misdemeanor. The statute establishes that a person commits theft of a trade secret if, with intent to deprive the owner of control of the trade secret, the person:

- Obtains or discloses the trade secret to an unauthorized person; or
- Without authority, makes or causes to be made a copy or article representing a trade secret.

Although not found under the Arkansas penal code, elsewhere in the Arkansas code there is another codified crime related to trade secrets. Under the Arkansas Feed Law, it is a Class C misdemeanor for a person to use to their own advantage or reveal any information acquired under the Arkansas Feed Law relating to any method, records, formulations, or processes subject to trade secret protection, except that information may be revealed to the State Plant Board, officers of the board or other state agencies, or to the courts when relevant in a judicial proceeding. Ark. Code Ann. § 2-37-113(f).

And even broader than Arkansas law, theft of trade secrets is a federal crime. When activity is related to a product or service used in or intended for use in interstate or foreign commerce, and when the party acts intentionally, federal law is triggered. 18 U.S.C. § 1832. The penalties for this federal crime are harsher than those imposed by Arkansas law, as violations can result in fine and imprisonment of up to 10 years. When an organization commits this federal crime, fines can reach a maximum of \$5,000,000 or three (3) times the value of the stolen trade secret.

We work with clients to prosecute and defend claims involving trade secrets. While civil litigation is often one avenue pursued, as this article highlights there can be criminal liability at stake as well. Recognizing that businesses are built through hard work and significant investment, and the fact that sometimes tremendous value is tied up in trade secrets, the law affords those trade secrets significant protection. Knowing the applicable state and federal laws, and taking the necessary steps to protect trade secrets, can help to ensure that a business remains competitive. While litigation can be costly and time-consuming, sometimes it becomes necessary. Working to protect and defend the core of a business by upholding the integrity of its valuable intellectual property rights and trade secrets is one of the most critically important challenges that a business faces.