

ID Electronic Crime Statutes

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TITLE 48

MONOPOLIES AND TRADE PRACTICES

CHAPTER 8

IDAHO TRADE SECRETS ACT

48-801. DEFINITIONS. As used in this chapter unless the context requires otherwise:

(1) "Improper means" include theft, bribery, misrepresentation, breach or inducement of a breach of a duty to maintain secrecy, or espionage through electronic or other means.

(2) "Misappropriation" means:

(a) Acquisition of a trade secret of another by a person who knows or has

reason to know that the trade secret was acquired by improper means; or

(b) Disclosure or use of a trade secret of another without express or

implied consent by a person who:

(A) Used improper means to acquire knowledge of the trade secret; or

(B) At the time of disclosure or use, knew or had reason to know

that his knowledge of the trade secret was:

(i) Derived from or through a person who had utilized improper

means to acquire it;

(ii) Acquired under circumstances giving rise to a duty to

maintain its secrecy or limit its use; or

(iii) Derived from or through a person who owed a duty to the

person seeking relief to maintain its secrecy or limit its use;

or

(C) Before a material change of his position, knew or had reason to

know that it was a trade secret and that knowledge of it had been

acquired by accident or mistake.

(3) "Person" means a natural person, corporation, business trust, estate,

trust, partnership, association, joint venture, government, governmental

subdivision or agency, or any other legal or commercial entity.

(4) "Computer program" means information which is capable of causing a

computer to perform logical operation(s) and:

(a) Is contained on any media or in any format;

(b) Is capable of being input, directly or indirectly, into a computer;

and

(c) Has prominently displayed a notice of copyright, or other proprietary or confidential marking, either within or on the media containing the information.

(5) "Trade secret" means information, including a formula, pattern, compilation, program, computer program, device, method, technique, or process, that:

(a) Derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use; and

(b) Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy. Trade secrets as defined in this subsection are subject to disclosure by a public agency according to chapter 3, title 9, Idaho Code.

TITLE 48

MONOPOLIES AND TRADE PRACTICES

CHAPTER 8

IDAHO TRADE SECRETS ACT

48-802. INJUNCTIVE RELIEF. (1) Actual or threatened misappropriation may be enjoined. 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.

(2) In exceptional circumstances, an injunction may condition future use upon payment of a reasonable royalty for no longer than the period of time for which use could have been prohibited. Exceptional circumstances include, but are not limited to, a material and prejudicial change of position prior to acquiring knowledge or reason to know of misappropriation that renders a prohibitive injunction inequitable.

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

TITLE 48

MONOPOLIES AND TRADE PRACTICES

CHAPTER 8

IDAHO TRADE SECRETS ACT

48-803. DAMAGES. (1) Except to the extent that a material and prejudicial change of position prior to acquiring knowledge or reason to know of misappropriation renders a monetary recovery inequitable, a complainant is entitled to recover damages for misappropriation. Damages can include both the actual loss caused by misappropriation and the unjust enrichment caused by misappropriation that is not taken into account in computing actual loss. In lieu of damages measured by any other methods, the damages caused by misappropriation may be measured by imposition of liability for a reasonable royalty for a misappropriator's unauthorized disclosure or use of a trade secret.

(2) If willful and malicious misappropriation exists, the court may award exemplary damages in an amount not exceeding twice any award made under subsection (1) of this section.

TITLE 48

MONOPOLIES AND TRADE PRACTICES
CHAPTER 8
IDAHO TRADE SECRETS ACT

48-804. PRESERVATION OF SECRECY. In an action under this chapter, a court shall preserve the secrecy of an alleged trade secret by reasonable means, which may include granting protective orders in connection with discovery proceedings, holding in-camera hearings, sealing the records of the action, and ordering any person involved in the litigation not to disclose an alleged trade secret without prior court approval.

TITLE 48

MONOPOLIES AND TRADE PRACTICES
CHAPTER 8
IDAHO TRADE SECRETS ACT

48-805. STATUTE OF LIMITATIONS. An action for misappropriation must be brought within three (3) years after the misappropriation is discovered or by the exercise of reasonable diligence should have been discovered. For the purposes of this section, a continuing misappropriation constitutes a single claim.

TITLE 48

MONOPOLIES AND TRADE PRACTICES
CHAPTER 8
IDAHO TRADE SECRETS ACT

48-806. EFFECT ON OTHER LAW. (1) Except as provided in subsection (2) of this section, this chapter displaces conflicting tort, restitutionary, and other law of this state providing civil liability remedies for misappropriation of a trade secret.

(2) This chapter does not affect:

- (a) Contractual remedies, whether or not based upon misappropriation of a trade secret; or
- (b) Other civil remedies that are not based upon misappropriation of a trade secret; or
- (c) Criminal remedies, whether or not based upon misappropriation of a trade secret.

TITLE 48

MONOPOLIES AND TRADE PRACTICES

CHAPTER 8

IDAHO TRADE SECRETS ACT

48-807. SHORT TITLE. This chapter may be cited as the "Idaho Trade Secrets Act."

TITLE 18

CRIMES AND PUNISHMENTS

CHAPTER 22

COMPUTER CRIME

18-2201. DEFINITIONS. As use in this chapter:

(1) To "access" means to instruct, communicate with, store data in, retrieve data from or otherwise make use of any resources of a computer, computer system, or computer network.

(2) "Computer" means, but is not limited to, an electronic device which performs logical, arithmetic, or memory functions by the manipulations of electronic or magnetic impulses, and includes all input, output, processing, storage, software, or communication facilities which are connected or related to such a device in a system or network.

(3) "Computer network" means, but is not limited to, the interconnection of communication lines (including microwave or other means of electronic communication) with a computer through remote terminals, or a complex consisting of two (2) or more interconnected computers.

(4) "Computer program" means, but is not limited to, a series of instructions or statements, in a form acceptable to a computer, which permits the functioning of a computer system in a manner designed to provide appropriate products from such computer system.

(5) "Computer software" means, but is not limited to, computer programs,

procedures, and associated documentation concerned with the operation of a computer system.

(6) "Computer system" means, but is not limited to, a set of related, connected or unconnected, computer equipment, devices, and software.

(7) "Property" includes, but is not limited to, financial instruments, information, including electronically produced data, and computer software and programs in either machine or human readable form, and any other tangible or intangible item of value.

(8) "Services" include, but are not limited to, computer time, data processing, and storage functions.

TITLE 18

CRIMES AND PUNISHMENTS

CHAPTER 22

COMPUTER CRIME

18-2202. COMPUTER CRIME. (1) Any person who knowingly accesses, attempts to access or uses, or attempts to use any computer, computer system, computer network, or any part thereof for the purpose of: devising or executing any scheme or artifice to defraud; obtaining money, property, or services by means of false or fraudulent pretenses, representations, or promises; or committing theft; commits computer crime.

(2) Any person who knowingly and without authorization alters, damages, or destroys any computer, computer system, or computer network described in section 18-2201, Idaho Code, or any computer software, program, documentation, or data contained in such computer, computer system, or computer network commits computer crime.

(3) Any person who knowingly and without authorization uses, accesses, or attempts to access any computer, computer system, or computer network described in section 18-2201, Idaho Code, or any computer software, program, documentation or data contained in such computer, computer system, or computer network, commits computer crime.

(4) A violation of the provisions of subsections (1) or (2) of this section shall be a felony. A violation of the provisions of subsection (3) of this section shall be a misdemeanor.

TITLE 26

BANKS AND BANKING
CHAPTER 12
CIVIL AND CRIMINAL PENALTIES

26-1220. ILLEGAL DATA PROCESSING ACTIVITIES. It shall be unlawful for any person to introduce fraudulent records or data into the computer system of a bank or to use the computer related facilities of a bank without the proper authorization, or to alter or destroy information or files in a bank's computer system or to obtain without proper authorization, by electronic or other means, money, financial instruments, property, services or valuable data stored in a bank's computer system. Any person violating the provisions of this section shall be guilty of a felony.