

What Laws Protect Trade Secrets in Arkansas?



Devin Bates

dbates@mwlaw.com
(501) 688.8864



John Johnson

jjohnson@mwlaw.com
(501) 688.8821

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Businesses are built through hard work and significant investment. One of the most significant investments, and thus greatest assets to a business, is the investment of time and resources in its people. Protecting that investment is often crucial to the brand and to the future of a business. When people have been entrusted with trade secrets, and when those people suddenly depart the business or compromise their loyalty, significant risks exist surrounding a business's trade secrets. It is important to understand and protect trade secrets in order to maintain a competitive advantage in the marketplace.

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 its investment in its people is one of the most critically important challenges that a business faces.

We often find ourselves assisting clients when someone has taken trade secrets from them. There are a variety of legal processes and mechanisms that we use to enforce legal rights related to trade secrets. But an important threshold question is this: what Arkansas laws govern trade secrets? There are a few commonly discussed laws such as the trade secret statute and the applicable rule of evidence. However, even beyond those, Arkansas has quite a few civil statutes and regulations that set the state law on trade secrets, and we will highlight some of those in this blog post.

First, the go-to place in the Arkansas code to begin assessing claims regarding trade secrets is the Arkansas Uniform Trade Secrets Act. Ark. Code Ann. § 4-75-601, *et seq.*

Next is the privilege found in Arkansas Rule of Evidence 507, establishing that a person may refuse to disclose or prevent others from disclosing trade secret information. However, this privilege may not be used to conceal fraud or other injustices, and it applies to the trade secret owner, the owner's agent, and the owner's employee.

Arkansas Rule of Civil Procedure 26(c)(7) provides another valuable safeguard, establishing that on motion by a party or a person from whom discovery is sought, the court may order the confidentiality of a trade secret or other research. The court can order that the information either not be disclosed, or be disclosed only in a designated manner.

But those commonly referenced trade secret laws are just the start. Here are some other Arkansas civil statutes and regulations that also govern trade secrets in Arkansas:

- The Arkansas Freedom of Information Act: Ark. Code Ann. § 25-19-105(b)(9)(A).
- Non-Compete Agreements: Ark. Code Ann. § 4-75-101(b)(1).
- Arkansas Health Insurance Portability and Accountability Act: Ark. Code Ann. § 23-86-313(b)(3).

- Uniform Money Services Act: Ark. Code Ann. § 23-55-607(b)(7).
- Limits on Access to Trade Secrets in the Uniform Commercial Code (UCC): Ark. Code Ann. § 4-9-408(d)(5).
- Uniform Arbitration Act: Ark. Code Ann. § 16-108-217(e).
- Small Employer Health Insurance - Information and Documentation: Ark. Code Ann. § 23-86-207(c).
- The Arkansas Water and Air Pollution Control Act: Ark. Code Ann. § 8-4-308.
- Fair Mortgage Lending Act: Ark. Code Ann. § 23-39-512(b)(7).
- Civil Remedies for Computer Crimes: Ark. Code Ann. § 5-41-106(b).
- Pesticide Control: Ark. Code Ann. § 2-16-418(b).
- Filings with the Securities Commissioner: Ark. Code Ann. § 23-42-207(b)(7).
- The Remedial Action Trust Fund Act: Ark. Code Ann. § 8-7-511(b).
- Regulated Substance Storage Tanks: Ark. Code Ann. § 8-7-811(a).
- Public Employees' Chemical Right to Know Act: Ark. Code Ann. § 8-7-1012(d); AR ADC 010.06.10-9.
- Petroleum Storage Tank Trust Fund Act: Ark. Code Ann. § 8-7-909(a).
- Risk Management and Own Risk Assessment Act: Ark. Code Ann. § 23-69-409(a).
- Deceptive Trade Practices: Ark. Code Ann. § 4-88-111(c).
- Electronic Product Radiation Protection: Ark. Code Ann. § 20-21-309(b).
- Third Party Administrators of Multiple Employer Trusts and Self-Insured Plans: Ark. Code Ann. § 23-92-207(c).
- Natural Gas Pipeline Safety Act: Ark. Code Ann. § 23-15-210(a).
- Filing of Insurance Rates: Ark. Code Ann. § 25-19-101, et seq.; Ark. Code Ann. § 23-67-212(b).
- Filing of Insurance Rates for Workers' Compensation and Employers' Liability Insurance: Ark. Code Ann. § 25-19-101, et seq.; Ark. Code Ann. § 23-67-219(1)(C)(iv).
- Hazardous Waste Management Act: Ark. Code Ann. § 8-7-225(d)(1)(B).
- Solid Waste Management Act: Ark. Code Ann. § 8-6-214(d)(1)(B).
- Arkansas Public Service Commission Records: Ark. Code Ann. § 23-2-316(b).
- Arkansas Meat and Meat Products Inspection Act: Ark. Code Ann. § 20-60-214(9).
- Pesticide Control: Ark. Code Ann. § 2-16-411(b)(2).
- Corporate Governance Annual Disclosure Act: Ark. Code Ann. § 23-63-2006.
- Activities of the Interstate Commission: Ark. Code Ann. § 12-51-301(f)(3)(B).
- Water and Air Pollution Control Act: Ark. Code Ann. § 8-4-207(6)(A)(ii).

Making decisions about when and how to enforce the various civil rights and responsibilities outlined above can be a complex decision. Often, we advise clients on making this decision in tandem with enforcement decisions about confidentiality agreements, non-solicit agreements, and non-compete agreements, to name a few. There is no one-size-fits-all approach to this decision making, and the best course of action often depends on the unique circumstances and goals of each client.