

CHAPTER 438

AN ACT to create 943.205 of the statutes, relating to the theft of trade secrets and providing a penalty.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

943.205 of the statutes is **created to read:**

943.205 THEFT OF TRADE SECRETS. (1) Whoever with intent to deprive or withhold from the owner thereof the control of a trade secret, or with intent to appropriate a trade secret to his own use or the use of another not the owner, and without authority of the owner, does any of the following may be penalized as provided in sub. (3):

(a) Takes, uses, transfers, conceals, exhibits or retains possession of property of the owner representing a trade secret.

(b) Makes or causes to be made a copy of property of the owner representing a trade secret.

(c) Obtains title to property representing a trade secret or a copy of such property by intentionally deceiving the owner with a false representation which is known to be false, made with intent to defraud, and which does defraud the person to whom it is made. "False representation" includes a promise made with intent not to perform if it is a part of a false and fraudulent scheme.

(2) In this section:

(a) "Trade secret" means the whole or any portion or phase of any scientific, technical, laboratory, experimental, development or manufacturing information, equipment, tooling, machinery, design, process, procedure, formula or improvement, or any business information used or for use in the conduct of a business, which is manifestly intended by the owner not to be available to anyone other than the owner or persons having access thereto with the owner's consent and which accords or may accord the owner a competitive advantage over other persons.

(b) "Property" includes without limitation because of enumeration any object, material, device, substance, writing, record, recording, drawing, sample, specimen, prototype, model, photograph, micro-organism, blueprint or map, or any copy thereof.

(c) "Representing" means disclosing, embodying, describing, depicting, containing, constituting, reflecting or recording.

(d) "Copy" means any facsimile, replica, photograph or other reproduction of any property and any notation, drawing or sketch made of or from any property.

(e) "Value" means the value of the property taken or copied, together with the value of the entire trade secret represented thereby.

(f) "Owner" includes a co-owner of the person charged and a partnership of which the person charged is a member, unless the person charged and the victim are husband and wife.

(3) Any one who violates this section may be fined not more than \$5,000, or imprisoned for not more than 3 years or both.

(4) In a prosecution for a violation of this section it shall be no defense that the person charged returned or intended to return the property involved or that he destroyed all copies made.

(5) This section does not prevent any one from using skills and knowledge of a general nature gained while employed by the owner of a trade secret.

Approved December 8, 1965.
