

Defend Trade Secrets Act Enacted

MAY 12, 2016

On May 11, 2016, following a year-long bipartisan effort, President Barack Obama signed the Defend Trade Secrets Act (DTSA) into law. As we previously reported in our recent client briefing, [*Federal Defend Trade Secrets Act Awaits President's Signature*](#), the DTSA federalizes trade secrets law, thereby providing employers a clear path to enforce their trade secret rights in federal court.

In addition to the provisions covered in our recent client briefing on the DTSA (available [here](#)), the DTSA also includes a whistleblower immunity provision that serves to protect individuals from criminal or civil liability for disclosing a trade secret if it is made in confidence to a government official, directly or indirectly, or to an attorney, and it is made for the purpose of reporting a violation of law. The immunity provisions also provide that an individual who files a lawsuit for retaliation by an employer for reporting a suspected violation of law, may disclose the trade secret to the attorney of the individual and use the trade secret information in the court proceeding, as long as the individual files any document containing the trade secret under seal and does not disclose the trade secret, except pursuant to court order. Importantly, under the immunity provision, employers have an affirmative duty to provide employees notice of the new immunity provision in “any contract or agreement with an employee that governs the use of a trade secret or other confidential information.” The consequence of failing to provide this notice in such agreements is that the employer may not be awarded exemplary damages or attorney’s fees under the DTSA against an employee to whom such notice was not provided. The notice requirement is applicable to contracts and agreements entered into or updated after enactment, May 11, 2016.

To view the DTSA, click [here](#).

1 Min Read

Related Locations

Charlotte

Chicago

Houston

Los Angeles

New York

Paris

San Francisco

Silicon Valley

Washington, DC

Related Capabilities

Labor & Employment

Related Regions

North America

Related Professionals



Derek G. Barella



Shane Blackstone



Joan Fife



Aviva Grumet-Morris



Deborah S.K. Jagoda



Scott E. Landau



Laura Petroff



Michael Roche



Stephen Sheinfeld



Cardelle Spangler



William Sunkel



Emilie Woodhead