



## New Bill Seeks to Combat Theft of Trade Secrets, Protect Jobs

On April 29, 2014, Senator Christopher Coons (D-Del.) and Senator Orrin Hatch (R-Utah) introduced legislation to provide a federal cause of action to curtail the estimated \$160 billion to \$480 billion currently being lost by U.S. companies as a result of trade secret theft each year. The legislation would allow both individuals and private companies to file lawsuits under the Federal Economic Espionage Act of 1996, which currently only applies in criminal matters.

Under current laws, unless there is a federal cause of action, companies must file in state court to protect their trade secrets, which include such information as manufacturing processes, industrial techniques, formulas and customer list. The Uniform Trade Secret Act ("UTSA"), which serves as the framework for many state laws, is a quilt-work law, and has subtle nuances in each respective state where it has been enacted, including definitions, standards, interaction with common law, and a variety of other individualized issues. As such, it is difficult and costly for litigants to obtain effective relief. Further, the Department of Justice has limited power under the Economic Espionage Act to pursue the rapidly increasing instances of trade secret theft occurring across the United States and the world, due to restricted federal resources available.

The proposed Defend Trade Secrets Act is a reaction to this, and would create a federal right of action, giving companies the power to protect their trade secrets in a uniform way and on a national level. It would also set a uniform federal standard for trade secret theft, thereby simplifying the way companies defend their rights, and enabling companies to draft agreements and policies to protect their trade secrets that apply nationwide.

Unlike previous introduced legislation by Representative Zoe Lofgren (D-Calif) and by Sen. Coons, the Defend Trade Secrets Act provides more remedies for successful parties, such as injunctions and

damages. With bi-partisan support, and the applause of several in corporate America who have wrestled with the UTSA, this is a bill to watch in the upcoming session.

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