

## 12 Pa.C.S. § 5302

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*Pennsylvania Statutes, Annotated by LexisNexis® > Pennsylvania Consolidated Statutes (§§ 101 — 9901) > Title 12. Commerce and Trade (Pts. I — IX) > Part IV. Commercial Protection (Chs. 51 — 57) > Chapter 53. Trade Secrets (§§ 5301 — 5308)*

### § 5302. Definitions.

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The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

*“Improper means.”* —Includes, but is not limited to, theft, bribery, misrepresentation, breach or inducement of a breach of a duty to maintain secrecy or espionage through electronic or other means.

*“Misappropriation.”* —Includes:

- (1) 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
- (2) disclosure or use of a trade secret of another without express or implied consent by a person who:
  - (i) used improper means to acquire knowledge of the trade secret;
  - (ii) at the time of disclosure or use, knew or had reason to know that his knowledge of the trade secret was:
    - (A) derived from or through a person who had utilized improper means to acquire it;
    - (B) acquired under circumstances giving rise to a duty to maintain its secrecy or limit its use; or
    - (C) derived from or through a person who owed a duty to the person seeking relief to maintain its secrecy or limit its use; or
  - (iii) 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.

*“Person.”* —A natural person, corporation, business trust, estate, trust, partnership, association, joint venture, government, governmental subdivision or agency or any other legal or commercial entity.

*“Trade secret.”* —Information, including a formula, drawing, pattern, compilation including a customer list, program, device, method, technique or process that:

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(1) 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.

(2) Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

*“Willful and malicious.”* —Such intentional acts or gross neglect of duty as to evince a reckless indifference of the rights of others on the part of the wrongdoer, and an entire want of care so as to raise the presumption that the person at fault is conscious of the consequences of his carelessness.

## History

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Act 2004-14 (S.B. 152), P.L. 143, § 1, approved Feb. 19, 2004, eff. in 60 days.

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