

## **S.C. Code Ann. § 39-8-20**

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*South Carolina Code of Laws Annotated by LexisNexis® > Title 39. Trade and Commerce (Chs. 1 — 79) > Chapter 8. Trade Secrets (§§ 39-8-1 — 39-8-130)*

### **§ 39-8-20. Definitions.**

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As used in this chapter, unless the context requires otherwise:

- (1)** “Improper means” include theft, bribery, misrepresentation, breach or inducement of a breach of a duty to maintain secrecy, duties imposed by the common law, statute, contract, license, protective order, or other court or administrative order, or espionage through electronic or other means.
- (2)** “Misappropriation” means:
  - (a)** acquisition of a trade secret of another by a person by improper means;
  - (b)** 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
  - (c)** 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; or
    - (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 by mistake or 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.
- (3)** “Owner” means the person or entity in whom or in which rightful legal or equitable title to the trade secret is reposed.
- (4)** “Person” means an individual, corporation, business trust, estate, trust, partnership, association, joint venture, government, governmental subdivision or agency, or any other legal or commercial entity.

**(5)** “Trade secret” means:

**(a)** information including, but not limited to, a formula, pattern, compilation, program, device, method, technique, product, system, or process, design, prototype, procedure, or code that:

**(i)** derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by the public or any other person who can obtain economic value from its disclosure or use, and

**(ii)** is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

**(b)** A trade secret may consist of a simple fact, item, or procedure, or a series or sequence of items or procedures which, although individually could be perceived as relatively minor or simple, collectively can make a substantial difference in the efficiency of a process or the production of a product, or may be the basis of a marketing or commercial strategy. The collective effect of the items and procedures must be considered in any analysis of whether a trade secret exists and not the general knowledge of each individual item or procedure.

## History

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1997 Act No. 38, § 1, eff May 21, 1997.

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