

## O.C.G.A. § 10-1-761

Current with Chapters 354 through 374 of the 2024 Regular Session of the General Assembly. The Statutes do not reflect possible future codification directives from the Revisor of Statutes pursuant to Code Section 28-9-5. Additionally, the Statutes may be affected by prior or subsequent legislative enactment, revision, or executive action.

*Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 1 Selling and Other Trade Practices (Arts. 1 — 36) > Article 27 Trade Secrets (§§ 10-1-760 — 10-1-767)*

### 10-1-761. Definitions.

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As used in this article, the term:

- (1) “Improper means” includes theft, bribery, misrepresentation, breach or inducement of a breach of a confidential relationship or other duty to maintain secrecy or limit use, or espionage through electronic or other means. Reverse engineering of a trade secret not acquired by misappropriation or independent development shall not be considered improper means.
- (2) “Misappropriation” means:
  - (A) 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
  - (B) 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 a trade secret;
    - (ii) At the time of disclosure or use, knew or had reason to know that knowledge of the trade secret was:
      - (I) Derived from or through a person who had utilized improper means to acquire it;
      - (II) Acquired under circumstances giving rise to a duty to maintain its secrecy or limit its use; or
      - (III) 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 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) “Person” means a natural person, corporation, business trust, estate, trust, partnership, association, joint venture, government, governmental subdivision or agency, or any other for profit or not for profit legal or commercial entity.

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**(4)** “Trade secret” means information, without regard to form, including, but not limited to, technical or nontechnical data, a formula, a pattern, a compilation, a program, a device, a method, a technique, a drawing, a process, financial data, financial plans, product plans, or a list of actual or potential customers or suppliers which is not commonly known by or available to the public and which information:

**(A)** Derives 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; and

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

## History

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Code 1981, § 10-1-761, enacted by Ga. L. 1990, p. 1560, § 1; Ga. L. 1996, p. 894, § 1.

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