

Congress Considering Federal Trade Secrets Act

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On December 2, 2015, the U.S. Senate Judiciary Committee held a hearing regarding the Defend Trade Secrets Act of 2015 (DTSA). If passed, the DTSA would create a federal private right of action for theft of trade secrets.

Unlike other areas of intellectual property, the protection of trade secrets in the United States is primarily a matter of state law, with forty-seven states having enacted some variation of the Uniform Trade Secrets Act. Although federal law enforcement authorities may criminally prosecute trade secret thieves under the Economic Espionage Act of 1996 (EEA), there is currently no federal recourse available to individual victims. DTSA supporters argue that the bill will standardize the protection of trade secrets, improve the efficiency and predictability of litigation, and allow companies to create one set of policies to protect their intellectual property nationwide.

The Defend Trade Secrets Act of 2015 (DTSA) was introduced on July 29, 2015 by U.S. Senators Chris Coons (D-Delaware) and Orrin Hatch (R-Utah), and has gained substantial bipartisan support. At the December 2 hearing, the Judiciary Committee heard statements from Senator Chuck Grassley (R-Indiana) and Senator Patrick Leahy (D-Vermont), and testimony from four witnesses – Karen Cochran, Chief IP Counsel at E.I. DuPont de Nemours and Co.; Tom Beall, VP and Chief IP Counsel at Corning Corp.; James Pooley, Principal at James Pooley, PLC; and Professor Sharon Sandeen, Hamline University School of Law. Professor Sandeen was the only witness to oppose the adoption of a uniform, federal trade secret law.

Kelley Drye's [Trade Secrets](#) Practice will continue to monitor Congress' consideration of the DTSA, and any other legal developments affecting the protection of trade secrets. The firm has decades of experience providing guidance on trade secret protection, implementing gatekeeper policies and protective measures, and handling trade secret disputes for a diverse set of clients. Please contact us if you have any questions about the proposed legislation or other legal concerns.

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