

## Massachusetts Regulation of Trade and Enterprises

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ALM GL ch. 93, §§ 42 and 42A (2011)

### § 42. Misappropriation of Trade Secrets; Tort Liability; Extent of Damages Allowable.

Whoever embezzles, steals or unlawfully takes, carries away, conceals, or copies, or by fraud or by deception obtains, from any person or corporation, with intent to convert to his own use, any trade secret, regardless of value, shall be liable in tort to such person or corporation for all damages resulting therefrom. Whether or not the case is tried by a jury, the court, in its discretion, may increase the damages up to double the amount found. The term "trade secret" as used in this section shall have the same meaning as is set forth in section thirty of chapter two hundred and sixty-six.

### § 42A. Injunctive Relief for Misappropriation of Trade Secrets.

Any aggrieved person may file a petition in equity in the supreme judicial court or in the superior court for the county in which either the petitioner or the respondent resides or transacts business, or in Suffolk county, to obtain appropriate injunctive relief including orders or decrees restraining and enjoining the respondent from taking, receiving, concealing, assigning, transferring, leasing, pledging, copying or otherwise using or disposing of a trade secret, regardless of value. The term "trade secret" as used in this section shall have the same meaning as set forth in section thirty of chapter two hundred and sixty-six.

In an action by an employer against a former employee under the provisions of this section for the conversion of a trade secret and where such conversion is in violation of the terms of a written employment agreement between said employer and employee, said employer shall, upon petition, be granted a preliminary injunction if it is shown that said employee is working in a directly competitive capacity with his former employer in violation of the terms of such agreement and that in violation of the terms of such agreement said employee has used such trade secret in such competition.

ALM GL ch. 266, § 30(4) (2011)

### § 30. Larceny; Property Defined; Punishment; Increased Punishment Where Victim is Elderly or Disabled Person.

(4) Whoever steals, or with intent to defraud obtains by a false pretense, or whoever unlawfully, and with intent to steal or embezzle, converts, secretes, unlawfully takes, carries away, conceals or copies with intent to convert any trade secret of another, regardless of value, whether such trade secret is or is not in his possession at the time of such conversion or secreting, shall be guilty of larceny, and shall be punished by imprisonment in the state prison for not more than five years, or by a fine of not more than twenty-five thousand dollars and imprisonment in jail for not more than two years. The term "trade secret" as used in this paragraph means and includes anything tangible or intangible or electronically kept or stored, which constitutes, represents, evidences or records a secret scientific, technical, merchandising, production or management information, design, process, procedure, formula, invention or improvement.

