

## S 1890

Defend Trade Secrets Act of 2016

**Congress:** 114 (2015–2017, Ended)

**Chamber:** Senate

**Policy Area:** Crime and Law Enforcement

**Introduced:** Jul 29, 2015

**Current Status:** Became Public Law No: 114-153.

**Latest Action:** Became Public Law No: 114-153. (May 11, 2016)

**Law:** 114-153 (Enacted May 11, 2016)

**Official Text:** <https://www.congress.gov/bill/114th-congress/senate-bill/1890>

### Sponsor

**Name:** Sen. Hatch, Orrin G. [R-UT]

**Party:** Republican • **State:** UT • **Chamber:** Senate

**Cosponsors** (65 total)

Cosponsor	Party / State	Role	Date Joined
Sen. Baldwin, Tammy [D-WI]	D · WI		Jul 29, 2015
Sen. Coons, Christopher A. [D-DE]	D · DE		Jul 29, 2015
Sen. Durbin, Richard J. [D-IL]	D · IL		Jul 29, 2015
Sen. Flake, Jeff [R-AZ]	R · AZ		Jul 29, 2015
Sen. Tillis, Thomas [R-NC]	R · NC		Jul 29, 2015
Sen. Blumenthal, Richard [D-CT]	D · CT		Sep 17, 2015
Sen. Blunt, Roy [R-MO]	R · MO		Oct 8, 2015
Sen. Crapo, Mike [R-ID]	R · ID		Oct 8, 2015
Sen. Risch, James E. [R-ID]	R · ID		Oct 8, 2015
Sen. Ayotte, Kelly [R-NH]	R · NH		Oct 28, 2015
Sen. Kirk, Mark Steven [R-IL]	R · IL		Nov 4, 2015
Sen. Klobuchar, Amy [D-MN]	D · MN		Nov 17, 2015
Sen. Perdue, David [R-GA]	R · GA		Nov 19, 2015
Sen. Sessions, Jeff [R-AL]	R · AL		Nov 19, 2015
Sen. Murphy, Christopher [D-CT]	D · CT		Dec 2, 2015
Sen. McCaskill, Claire [D-MO]	D · MO		Dec 7, 2015
Sen. Franken, Al [D-MN]	D · MN		Dec 8, 2015
Sen. King, Angus S., Jr. [I-ME]	I · ME		Dec 9, 2015
Sen. Collins, Susan M. [R-ME]	R · ME		Dec 10, 2015
Sen. Wicker, Roger F. [R-MS]	R · MS		Dec 10, 2015
Sen. Fischer, Deb [R-NE]	R · NE		Dec 18, 2015
Sen. Heller, Dean [R-NV]	R · NV		Dec 18, 2015
Sen. Hirono, Mazie K. [D-HI]	D · HI		Jan 11, 2016
Sen. Feinstein, Dianne [D-CA]	D · CA		Jan 19, 2016
Sen. Graham, Lindsey [R-SC]	R · SC		Jan 20, 2016
Sen. Whitehouse, Sheldon [D-RI]	D · RI		Jan 20, 2016
Sen. Manchin, Joe, III [D-WV]	D · WV		Jan 27, 2016
Sen. Cassidy, Bill [R-LA]	R · LA		Feb 1, 2016
Sen. Boozman, John [R-AR]	R · AR		Feb 3, 2016
Sen. Schatz, Brian [D-HI]	D · HI		Feb 3, 2016
Sen. Enzi, Michael B. [R-WY]	R · WY		Feb 4, 2016
Sen. Daines, Steve [R-MT]	R · MT		Feb 9, 2016
Sen. Roberts, Pat [R-KS]	R · KS		Feb 9, 2016
Sen. Carper, Thomas R. [D-DE]	D · DE		Feb 10, 2016
Sen. Cochran, Thad [R-MS]	R · MS		Feb 10, 2016
Sen. Lankford, James [R-OK]	R · OK		Feb 10, 2016
Sen. Ernst, Joni [R-IA]	R · IA		Feb 11, 2016
Sen. Isakson, Johnny [R-GA]	R · GA		Feb 11, 2016
Sen. McCain, John [R-AZ]	R · AZ		Feb 11, 2016
Sen. Toomey, Patrick [R-PA]	R · PA		Feb 11, 2016
Sen. Udall, Tom [D-NM]	D · NM		Feb 11, 2016

Cosponsor	Party / State	Role	Date Joined
Sen. Bennet, Michael F. [D-CO]	D · CO		Feb 22, 2016
Sen. Boxer, Barbara [D-CA]	D · CA		Feb 22, 2016
Sen. Donnelly, Joe [D-IN]	D · IN		Feb 22, 2016
Sen. Portman, Rob [R-OH]	R · OH		Feb 23, 2016
Sen. Inhofe, James M. [R-OK]	R · OK		Feb 24, 2016
Sen. Alexander, Lamar [R-TN]	R · TN		Feb 25, 2016
Sen. Burr, Richard [R-NC]	R · NC		Feb 25, 2016
Sen. Kaine, Tim [D-VA]	D · VA		Feb 25, 2016
Sen. Capito, Shelley Moore [R-WV]	R · WV		Feb 29, 2016
Sen. Shaheen, Jeanne [D-NH]	D · NH		Mar 3, 2016
Sen. Sullivan, Dan [R-AK]	R · AK		Mar 7, 2016
Sen. Booker, Cory A. [D-NJ]	D · NJ		Mar 8, 2016
Sen. Moran, Jerry [R-KS]	R · KS		Mar 8, 2016
Sen. Grassley, Chuck [R-IA]	R · IA		Mar 9, 2016
Sen. Leahy, Patrick J. [D-VT]	D · VT		Mar 9, 2016
Sen. Warner, Mark R. [D-VA]	D · VA		Mar 9, 2016
Sen. Casey, Robert P., Jr. [D-PA]	D · PA		Mar 10, 2016
Sen. Peters, Gary C. [D-MI]	D · MI		Mar 10, 2016
Sen. Murray, Patty [D-WA]	D · WA		Mar 14, 2016
Sen. Stabenow, Debbie [D-MI]	D · MI		Mar 14, 2016
Sen. Coats, Daniel [R-IN]	R · IN		Mar 15, 2016
Sen. Gardner, Cory [R-CO]	R · CO		Mar 15, 2016
Sen. Vitter, David [R-LA]	R · LA		Mar 17, 2016
Sen. Nelson, Bill [D-FL]	D · FL		Apr 4, 2016

## Committee Activity

Committee	Chamber	Activity	Date
Judiciary Committee	Senate	Reported By	Jan 28, 2016
Judiciary Committee	House	Discharged from	Apr 18, 2016

## Subjects & Policy Tags

### Policy Area:

Crime and Law Enforcement

## Related Bills

Bill	Relationship	Last Action
114 HR 3326	Identical bill	Oct 1, 2015: Referred to the Subcommittee on Courts, Intellectual Property, and the Internet.

(This measure has not been amended since it was reported to the Senate on January 28, 2016. The summary of that version is repeated here.)

### **Defend Trade Secrets Act of 2016**

(Sec. 2) This bill amends the federal criminal code to create a private civil cause of action for trade secret misappropriation.

A trade secret owner may file a civil action in a U.S. district court seeking relief for trade secret misappropriation related to a product or service in interstate or foreign commerce. The bill establishes remedies including injunctive relief, compensatory damages, and attorney's fees. It sets a three-year statute of limitation from the date of discovery of the misappropriation.

A trade secret owner may apply for and a court may grant, in extraordinary circumstances, an ex parte seizure order to prevent dissemination of a trade secret if the court makes specific findings, including that: (1) a temporary restraining order or another form of equitable relief is inadequate, (2) an immediate and irreparable injury will occur if seizure is not ordered, and (3) the person against whom seizure would be ordered has actual possession of the trade secret and any property to be seized.

A court must take custody of and secure seized materials and hold a seizure hearing within seven days. An interested party may file a motion to encrypt seized material.

A party harmed by a wrongful or excessive seizure may move to dissolve or modify the order and may also seek relief against the applicant of the seizure order.

(Sec. 3) The bill increases the maximum penalty for trade secret theft (currently \$5 million) to the greater of \$5 million or three times the value of the stolen trade secret.

A court may not authorize or require the disclosure of information that an owner asserts to be a trade secret unless the court allows the owner to submit under seal a description of the interest in keeping the information confidential. Additionally, disclosure of information related to a trade secret in connection with a prosecution does not constitute a waiver of trade secret protection unless an owner expressly consents to such waiver.

It adds economic espionage and trade secret theft to the list of predicate offenses that constitute racketeering activity.

(Sec. 4) The Department of Justice must submit to Congress and publish a biannual report on trade secret theft outside the United States.

(Sec. 5) The bill expresses the sense of Congress that: (1) trade secret theft occurs in the United States and around the world, (2) trade secret theft harms owner companies and their employees, (3) the Economic Espionage Act of 1996 applies broadly to protect trade secrets from theft; and (4) it is important, when seizing information, to balance the need to address misappropriation with the needs of third parties and the accused party.

(Sec. 6) The Federal Judicial Center must develop, update, and submit to Congress best practices for seizing information and securing seized information.

(Sec. 7) The bill provides immunity from civil and criminal liability for an individual who discloses a trade secret: (1) to a

government official or attorney in confidence to report or investigate a violation of law, or (2) in a legal complaint or filing under seal.

## Actions Timeline

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- **May 11, 2016:** Signed by President.
- **May 11, 2016:** Became Public Law No: 114-153.
- **Apr 29, 2016:** Presented to President.
- **Apr 27, 2016:** Mr. Goodlatte moved to suspend the rules and pass the bill.
- **Apr 27, 2016:** Considered under suspension of the rules. (consideration: CR H2028-2034)
- **Apr 27, 2016:** DEBATE - The House proceeded with forty minutes of debate on S. 1890.
- **Apr 27, 2016:** At the conclusion of debate, the Yeas and Nays were demanded and ordered. Pursuant to the provisions of clause 8, rule XX, the Chair announced that further proceedings on the motion would be postponed.
- **Apr 27, 2016:** Considered as unfinished business. (consideration: CR H2046-2047)
- **Apr 27, 2016:** Passed/agreed to in House: On motion to suspend the rules and pass the bill Agreed to by the Yeas and Nays: (2/3 required): 410 - 2 (Roll no. 172). (text: CR H2028)
- **Apr 27, 2016:** On motion to suspend the rules and pass the bill Agreed to by the Yeas and Nays: (2/3 required): 410 - 2 (Roll no. 172). (text: CR H2028)
- **Apr 27, 2016:** Motion to reconsider laid on the table Agreed to without objection.
- **Apr 26, 2016:** Reported by the Committee on Judiciary. H. Rept. 114-529.
- **Apr 26, 2016:** Placed on the Union Calendar, Calendar No. 409.
- **Apr 20, 2016:** Committee Consideration and Mark-up Session Held.
- **Apr 20, 2016:** Ordered to be Reported by Voice Vote.
- **Apr 18, 2016:** Subcommittee on Courts, Intellectual Property, and the Internet Discharged.
- **Apr 11, 2016:** Received in the House.
- **Apr 11, 2016:** Referred to the Subcommittee on Courts, Intellectual Property, and the Internet.
- **Apr 11, 2016:** Referred to the House Committee on the Judiciary.
- **Apr 5, 2016:** Message on Senate action sent to the House.
- **Apr 4, 2016:** Measure laid before Senate by unanimous consent. (consideration: CR S1631-1636)
- **Apr 4, 2016:** The committee substitute agreed to by Unanimous Consent. (text of committee substitute as amended: CR S1631-1634)
- **Apr 4, 2016:** Passed/agreed to in Senate: Passed Senate with an amendment by Yea-Nay Vote. 87 - 0. Record Vote Number: 39.
- **Apr 4, 2016:** Passed Senate with an amendment by Yea-Nay Vote. 87 - 0. Record Vote Number: 39.
- **Mar 7, 2016:** By Senator Grassley from Committee on the Judiciary filed written report. Report No. 114-220.
- **Jan 28, 2016:** Committee on the Judiciary. Ordered to be reported with an amendment in the nature of a substitute favorably.
- **Jan 28, 2016:** Committee on the Judiciary. Reported by Senator Grassley with an amendment in the nature of a substitute. Without written report.
- **Jan 28, 2016:** Placed on Senate Legislative Calendar under General Orders. Calendar No. 355.
- **Dec 2, 2015:** Committee on the Judiciary. Hearings held.
- **Jul 29, 2015:** Introduced in Senate
- **Jul 29, 2015:** Read twice and referred to the Committee on the Judiciary.