

## Rhode Island

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### 1. What is the statutory authority for trade secret protection in your state?

Rhode Island Uniform Trade Secrets Act, 6 R.I. Gen. Laws § 6-41-1, *et seq.*

### 2. What are the elements of a trade secret claim in your state, and are any unique?

A plaintiff must assert specific allegations that:

1. it possessed information that meets the definition of a trade secret under the Rhode Island Uniform Trade Secret Act, and
2. must proffer evidence that defendants actually received the trade secret and improperly used it.

### 3. How specific do your courts require the plaintiff to be in defining its “trade secrets?” (This could include discussing discovery case law requiring particularity.)

The courts have described that for discovery considerations it is appropriate to require the plaintiff to first identify with reasonable particularity those trade secrets that it believes to be at issue. A party must be able to identify its asserted trade secrets with reasonable specificity so as to separate it from the general skill and knowledge possessed by persons who could obtain economic values from its disclosure or use. In *Alifax Holding Spa v. Alcor Scientific Inc.*, 404 F. Supp. 3d 552, 565 (D.R.I. 2019), the court vacated a judgement in favor of plaintiffs for their failure to adequately disclose their trade secret and for not providing any testimony or documentary proof concerning how difficult, relative to the state of knowledge, it would be to develop an the specific product at issue.

### 4. What is required in your state for a plaintiff to show it has taken reasonable measures to protect its trade secrets? (Preferably answer with practical, factual requirements from decisions.)

Rhode Island, unlike Massachusetts and New Hampshire does not have a well established or deeply considered what sufficiently establishes “reasonable efforts to maintain secrecy.” Rather, Rhode Island looks at the “nature” of the information the holder seeks to protect, and “how readily ascertainable the information is for a person conducting an independent investigation.” *Home Gas Corp. of Massachusetts v. DeBlois Oil Co.*, 691 F. Supp. 567, 574 (D.R.I. 1987) (citing *Callahan v. R.I. Oil Co.*, 103 R.I. 656, 660, 240 A.2d 411, 413-14 (1968)).

**5. Does your state apply the inevitable disclosure doctrine? If so, how is it applied?**

Under Rhode Island law, their rendition of their Uniform Trade Secrets Act, which as looser interpretations of requiring use of the trade secret, leaves open the door for plaintiffs to rely on the inevitable disclosure doctrine. Although no case law has specifically addressed the applicability of the doctrine, the very open-ended definition of misappropriation can predict an application similar to the decision in *PepsiCo, Inc. v. Redmond*, 54 F.3d 1262, 1269 (7th Cir. 1995).

**6. How have courts in your state addressed the defense that an alleged trade secret is “reasonably ascertainable?” What needs to be shown to prevail on that theory?**

Rhode Island has discovered the availability of a “reasonably ascertainable” defense from a trade secret misappropriation charge. In a case regarding the misappropriation of a customer list, a defendant claimed that the plaintiffs claimed trade secret because the information in dispute could be reasonably ascertained through ordinary business channels, classified business or trade directories. *Callahan v. R. I. Oil Co.*, 240 A.2d 411, 413-14 (1968). The standard of “reasonably ascertainable through ordinary business channels or business directories” has been analyzed in other Rhode Island claims against trade secret misappropriation. *Home Gas Corp. of Massachusetts, Inc. v. DeBlois Oil Co.*, 691 F.Supp. 567, 574-75 (D.R.I. 1987); *accord R.J. Carbone Co. v. Regan*, 582 F.Supp.2d 220, 225 n.3 (D.R.I. 2008).

**7. What are the most recent “hot button” issues addressed by courts in your state regarding trade secret claims?**

There have been certain themes in trade secret claims that are being addressed by courts all around the country. Some of these include: (1) cases discussing a “generally known and readily ascertainable” defense to trade secret misappropriation, most notably in Texas; (2) evaluating the reasonable secrecy efforts of confidentiality, most notably in California and Pennsylvania; (3) addressing the standard of “sufficient trade secret identification,” and (4) navigating the protectable trade secrets in customer identification in a rising tech world, most notably in Oregon and California. There have not been any “hot button” issues in Rhode Island as of the date of this publication.

**8. How does your state’s Trade Secret law differ from the DTSA, as the latter is applied in your Circuit?**

There are some unique features in the DTSA that is not present in RIUTSA. Some of these include, Ex Parte Seizures, Whistleblower Immunity and employer notification requirements of it, and the lack of a trade secret identification requirement on trade secret holders. In addition, the DTSA also provides for federal criminal charges for trade secret theft, while the RIUTSA is solely a civil action. Lastly, the definitions of misappropriation between the two acts are similar, yet different. The RIUTSA details a variety of ways in which “improper means” could be understood, where the DTSA is rather vague and open-ended. In addition, it appears that the DTSA seems to reject the inevitable disclosure act by stating that it may not “prevent a person from entering into an employment relationship.” Rhode Island, however, has left the door open for the inevitable disclosure doctrine, as discussed above.