

North Carolina Reinforces Property Protection Law, Giving Employers Right to Sue

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The protection of property, be it patient records, financial information, consumer data, merchandise, or intellectual property, is a serious issue for North Carolina companies of all sizes. Beginning on January 1, 2016, North Carolina employers will be able to recover monetary damages resulting from employees' unauthorized access to and theft of their property.

The North Carolina Property Protection Act, [House Bill 405](#), has been labeled by some critics as an "ag gag" law, a statute designed to put an end to undercover investigations on industrial farms. The Act makes it illegal to apply for a job for any reason other than a "bona fide intent of seeking or holding employment."

It is illegal under the Act to make audio or video recordings, take photographs, or remove data, paper, records, or other material from any area that is not open to the public. Going much further than the typical ag gag statute (which cover agricultural employers), the Act is broadly written to provide protection to all property owners. In addition, the Act provides civil remedies to injured parties, including recovery of compensatory damages, attorneys' fees, and exemplary damages of \$5,000 for every day that the law was violated, rather than criminal penalties. Significantly, the Act also makes parties who intentionally direct, assist, compensate, or induce others to violate the Act jointly liable.

Businesses likely will be able to bring employment-related litigation, such as non-compete cases in which a former employee is suspected of taking valuable trade secrets, under the Act. The joint liability provisions in the Act makes it even more important that employers exercise due diligence when hiring new employees, particularly those who may have worked for a competitor. Employers should also be cautious of doing anything that could be construed to induce incoming employees to take property belonging to their former employer upon leaving.

For additional information on the new law, please contact the Jackson Lewis attorney with whom you regularly work.

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