

prohibition, or take such other action, as is warranted to prevent a continuing and substantial injury to the United States or to any person or class of persons for whose protection the action is brought. A proceeding under this section is governed by the Federal Rules of Civil Procedure, except that, if an indictment has been returned against the respondent, discovery is governed by the Federal Rules of Criminal Procedure.

(Added Pub. L. 98-473, title II, §1205(a), Oct. 12, 1984, 98 Stat. 2152; amended Pub. L. 100-690, title VII, §7077, Nov. 18, 1988, 102 Stat. 4406; Pub. L. 101-647, title XXV, §2521(b)(2), title XXXV, §3542, Nov. 29, 1990, 104 Stat. 4865, 4925; Pub. L. 103-322, title XXXIII, §330011(k), Sept. 13, 1994, 108 Stat. 2145; Pub. L. 104-191, title II, §247, Aug. 21, 1996, 110 Stat. 2018; Pub. L. 107-273, div. B, title IV, §4002(b)(14), Nov. 2, 2002, 116 Stat. 1808.)

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in subsec. (b), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

The Federal Rules of Criminal Procedure, referred to in subsec. (b), are set out in the Appendix to this title.

AMENDMENTS

2002—Subsec. (a)(1)(B). Pub. L. 107-273, § 4002(b)(14)(A), substituted “; or” for “, or” at end.

Subsec. (a)(1)(C). Pub. L. 107-273, § 4002(b)(14)(B), substituted semicolon for period at end.

1996—Subsec. (a)(1)(C). Pub. L. 104-191, §247(a), added subpar. (C).

Subsec. (a)(2). Pub. L. 104-191, §247(b), inserted “or a Federal health care offense” after “title”.

1994—Pub. L. 103-322, §330011(k), repealed Pub. L. 101-647, §3542. See 1990 Amendment note below.

1990—Pub. L. 101-647, §2521(b)(2), added subsec. (a), inserted subsec. (b) designation, and struck out former first sentence which read as follows: “Whenever it shall appear that any person is engaged or is about to engage in any act which constitutes or will constitute a violation of this chapter, or of section 287, 371 (insofar as such violation involves a conspiracy to defraud the United States or any agency thereof), or 1001 of this title the Attorney General may initiate a civil proceeding in a district court of the United States to enjoin such violation.”

Pub. L. 101-647, §3542, which directed insertion of a comma after “of this title”, was repealed by Pub. L. 103-322, §330011(k).

1988—Pub. L. 100-690 inserted “or of section 287, 371 (insofar as such violation involves a conspiracy to defraud the United States or any agency thereof), or 1001 of this title” after “violation of this chapter.”.

EFFECTIVE DATE OF 1994 AMENDMENT

Section 330011(k) of Pub. L. 103-322 provided that the amendment made by that section is effective Nov. 29, 1990.

§ 1346. Definition of “scheme or artifice to defraud”

For the purposes of this chapter, the term “scheme or artifice to defraud” includes a scheme or artifice to deprive another of the intangible right of honest services.

(Added Pub. L. 100-690, title VII, §7603(a), Nov. 18, 1988, 102 Stat. 4508.)

§ 1347. Health care fraud

(a) Whoever knowingly and willfully executes, or attempts to execute, a scheme or artifice—

(1) to defraud any health care benefit program; or

(2) to obtain, by means of false or fraudulent pretenses, representations, or promises, any of the money or property owned by, or under the custody or control of, any health care benefit program,

in connection with the delivery of or payment for health care benefits, items, or services, shall be fined under this title or imprisoned not more than 10 years, or both. If the violation results in serious bodily injury (as defined in section 1365 of this title), such person shall be fined under this title or imprisoned not more than 20 years, or both; and if the violation results in death, such person shall be fined under this title, or imprisoned for any term of years or for life, or both.

(b) With respect to violations of this section, a person need not have actual knowledge of this section or specific intent to commit a violation of this section.

(Added Pub. L. 104-191, title II, §242(a)(1), Aug. 21, 1996, 110 Stat. 2016; amended Pub. L. 111-148, title X, §10606(b), Mar. 23, 2010, 124 Stat. 1008.)

AMENDMENTS

2010—Pub. L. 111-148 designated existing provisions as subsec. (a) and added subsec. (b).

§ 1348. Securities and commodities fraud

Whoever knowingly executes, or attempts to execute, a scheme or artifice—

(1) to defraud any person in connection with any commodity for future delivery, or any option on a commodity for future delivery, or any security of an issuer with a class of securities registered under section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 78l) or that is required to file reports under section 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(d)); or

(2) to obtain, by means of false or fraudulent pretenses, representations, or promises, any money or property in connection with the purchase or sale of any commodity for future delivery, or any option on a commodity for future delivery, or any security of an issuer with a class of securities registered under section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 78l) or that is required to file reports under section 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(d));

shall be fined under this title, or imprisoned not more than 25 years, or both.

(Added Pub. L. 107-204, title VIII, §807(a), July 30, 2002, 116 Stat. 804; amended Pub. L. 111-21, §2(e)(1), May 20, 2009, 123 Stat. 1618.)

AMENDMENTS

2009—Pub. L. 111-21, §2(e)(1)(A), inserted “and commodities” before “fraud” in section catchline.

Pars. (1), (2). Pub. L. 111-21, §2(e)(1)(B), (C), inserted “any commodity for future delivery, or any option on a commodity for future delivery, or” before “any security”.

§ 1349. Attempt and conspiracy

Any person who attempts or conspires to commit any offense under this chapter shall be sub-

ject to the same penalties as those prescribed for the offense, the commission of which was the object of the attempt or conspiracy.

(Added Pub. L. 107-204, title IX, §902(a), July 30, 2002, 116 Stat. 805.)

§ 1350. Failure of corporate officers to certify financial reports

(a) CERTIFICATION OF PERIODIC FINANCIAL REPORTS.—Each periodic report containing financial statements filed by an issuer with the Securities Exchange Commission pursuant to section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a) or 78o(d)) shall be accompanied by a written statement by the chief executive officer and chief financial officer (or equivalent thereof) of the issuer.

(b) CONTENT.—The statement required under subsection (a) shall certify that the periodic report containing the financial statements fully complies with the requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m or 78o(d)) and that information contained in the periodic report fairly presents, in all material respects, the financial condition and results of operations of the issuer.

(c) CRIMINAL PENALTIES.—Whoever—

(1) certifies any statement as set forth in subsections (a) and (b) of this section knowing that the periodic report accompanying the statement does not comport with all the requirements set forth in this section shall be fined not more than \$1,000,000 or imprisoned not more than 10 years, or both; or

(2) willfully certifies any statement as set forth in subsections (a) and (b) of this section knowing that the periodic report accompanying the statement does not comport with all the requirements set forth in this section shall be fined not more than \$5,000,000, or imprisoned not more than 20 years, or both.

(Added Pub. L. 107-204, title IX, §906(a), July 30, 2002, 116 Stat. 806.)

§ 1351. Fraud in foreign labor contracting

Whoever knowingly and with intent to defraud recruits, solicits or hires a person outside the United States for purposes of employment in the United States by means of materially false or fraudulent pretenses, representations or promises regarding that employment shall be fined under this title or imprisoned for not more than 5 years, or both.

(Added Pub. L. 110-457, title II, §222(e)(2), Dec. 23, 2008, 122 Stat. 5070.)

CHAPTER 65—MALICIOUS MISCHIEF

Sec.	
1361.	Government property or contracts.
1362.	Communication lines, stations or systems.
1363.	Buildings or property within special maritime and territorial jurisdiction.
1364.	Interference with foreign commerce by violence.
1365.	Tampering with consumer products.
1366.	Destruction of an energy facility.
1367.	Interference with the operation of a satellite.
1368.	Harming animals used in law enforcement.

¹ So in original. Probably should be “of”.

Sec.	
1369.	Destruction of veterans’ memorials.

AMENDMENTS

2003—Pub. L. 108-29, §2(b), May 29, 2003, 117 Stat. 772, added item 1369.

2000—Pub. L. 106-254, §2(b), Aug. 2, 2000, 114 Stat. 638, added item 1368.

1990—Pub. L. 101-647, title XXXV, §3543, Nov. 29, 1990, 104 Stat. 4926, inserted a period after “1366”.

1986—Pub. L. 99-646, §29(b), Nov. 10, 1986, 100 Stat. 3598, redesignated item 1365, relating to destruction of an energy facility, as item 1366.

Pub. L. 99-508, title III, §303(b), Oct. 21, 1986, 100 Stat. 1873, added item 1367.

1984—Section 1365(d) of this title as added by Pub. L. 98-473, title II, §1011(a), Oct. 12, 1984, 98 Stat. 2141, added item 1365, relating to destruction of an energy facility.

1983—Pub. L. 98-127, §3, Oct. 13, 1983, 97 Stat. 832, added item 1365, relating to tampering with consumer products.

§ 1361. Government property or contracts

Whoever willfully injures or commits any deprivation against any property of the United States, or of any department or agency thereof, or any property which has been or is being manufactured or constructed for the United States, or any department or agency thereof, or attempts to commit any of the foregoing offenses, shall be punished as follows:

If the damage or attempted damage to such property exceeds the sum of \$1,000, by a fine under this title or imprisonment for not more than ten years, or both; if the damage or attempted damage to such property does not exceed the sum of \$1,000, by a fine under this title or by imprisonment for not more than one year, or both.

(June 25, 1948, ch. 645, 62 Stat. 764; Pub. L. 103-322, title XXXII, §320903(d)(1), title XXXIII, §330016(1)(H), (L), Sept. 13, 1994, 108 Stat. 2125, 2147; Pub. L. 104-294, title VI, §§601(a)(3), 605(e), 606(a), Oct. 11, 1996, 110 Stat. 3498, 3510, 3511.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §82 (Mar. 4, 1909, ch. 321, §35, 35 Stat. 1095; Oct. 23, 1918, ch. 194, 40 Stat. 1015; June 18, 1934, ch. 587, 48 Stat. 996; Apr. 4, 1938, ch. 69, 52 Stat. 197).

The embezzlement and theft provisions of section 82 of title 18, U.S.C., 1940 ed., are now incorporated in section 641 of this title.

Words “or any corporation in which the United States of America is a stockholder” were omitted as unnecessary in view of definition of “agency” in section 6 of this title.

Designation of the place of confinement as “in a jail” was omitted because section 4082 of this title commits all prisoners to the custody of the Attorney General or his authorized representative, who shall designate the place of confinement. (See reviser’s note under section 1 of this title.)

The smaller penalty for offenses involving \$50 or less was extended to offenses involving \$100 or less. The use of \$50 as the dividing line between felonies and misdemeanors originated at a time when that sum was of much greater value than \$100 is now.

The word “damage” was substituted twice for the word “value”, and the definition of “value” was omitted as inapplicable to this section. These words and definition, however, are retained in that part of said section 82 which is now section 641 of this title.

Minor changes were made in phraseology.

AMENDMENTS

1996—Pub. L. 104-294, §605(e), inserted comma after “foregoing offenses” in first par.