

Sec.	
1832.	Theft of trade secrets.
1833.	Exceptions to prohibitions.
1834.	Criminal forfeiture.
1835.	Orders to preserve confidentiality.
1836.	Civil proceedings to enjoin violations.
1837.	Applicability to conduct outside the United States.
1838.	Construction with other laws.
1839.	Definitions.

AMENDMENTS

2002—Pub. L. 107-273, div. B, title IV, §4002(f)(1), Nov. 2, 2002, 116 Stat. 1811, substituted “Applicability to conduct” for “Conduct” in item 1837.

§ 1831. Economic espionage

(a) IN GENERAL.—Whoever, intending or knowing that the offense will benefit any foreign government, foreign instrumentality, or foreign agent, knowingly—

(1) steals, or without authorization appropriates, takes, carries away, or conceals, or by fraud, artifice, or deception obtains a trade secret;

(2) without authorization copies, duplicates, sketches, draws, photographs, downloads, uploads, alters, destroys, photocopies, replicates, transmits, delivers, sends, mails, communicates, or conveys a trade secret;

(3) receives, buys, or possesses a trade secret, knowing the same to have been stolen or appropriated, obtained, or converted without authorization;

(4) attempts to commit any offense described in any of paragraphs (1) through (3); or

(5) conspires with one or more other persons to commit any offense described in any of paragraphs (1) through (3), and one or more of such persons do any act to effect the object of the conspiracy,

shall, except as provided in subsection (b), be fined not more than \$5,000,000 or imprisoned not more than 15 years, or both.

(b) ORGANIZATIONS.—Any organization that commits any offense described in subsection (a) shall be fined not more than the greater of \$10,000,000 or 3 times the value of the stolen trade secret to the organization, including expenses for research and design and other costs of reproducing the trade secret that the organization has thereby avoided.

(Added Pub. L. 104-294, title I, §101(a), Oct. 11, 1996, 110 Stat. 3488; amended Pub. L. 112-269, §2, Jan. 14, 2013, 126 Stat. 2442.)

AMENDMENTS

2013—Subsec. (a). Pub. L. 112-269, §2(a), substituted “not more than \$5,000,000” for “not more than \$500,000” in concluding provisions.

Subsec. (b). Pub. L. 112-269, §2(b), substituted “not more than the greater of \$10,000,000 or 3 times the value of the stolen trade secret to the organization, including expenses for research and design and other costs of reproducing the trade secret that the organization has thereby avoided” for “not more than \$10,000,000”.

§ 1832. Theft of trade secrets

(a) Whoever, with intent to convert a trade secret, that is related to a product or service used in or intended for use in interstate or foreign commerce, to the economic benefit of anyone

other than the owner thereof, and intending or knowing that the offense will, injure any owner of that trade secret, knowingly—

(1) steals, or without authorization appropriates, takes, carries away, or conceals, or by fraud, artifice, or deception obtains such information;

(2) without authorization copies, duplicates, sketches, draws, photographs, downloads, uploads, alters, destroys, photocopies, replicates, transmits, delivers, sends, mails, communicates, or conveys such information;

(3) receives, buys, or possesses such information, knowing the same to have been stolen or appropriated, obtained, or converted without authorization;

(4) attempts to commit any offense described in paragraphs (1) through (3); or

(5) conspires with one or more other persons to commit any offense described in paragraphs (1) through (3), and one or more of such persons do any act to effect the object of the conspiracy,

shall, except as provided in subsection (b), be fined under this title or imprisoned not more than 10 years, or both.

(b) Any organization that commits any offense described in subsection (a) shall be fined not more than \$5,000,000.

(Added Pub. L. 104-294, title I, §101(a), Oct. 11, 1996, 110 Stat. 3489; amended Pub. L. 112-236, §2, Dec. 28, 2012, 126 Stat. 1627.)

AMENDMENTS

2012—Subsec. (a). Pub. L. 112-236 substituted “a product or service used in or intended for use in” for “or included in a product that is produced for or placed in” in introductory provisions.

§ 1833. Exceptions to prohibitions

This chapter does not prohibit—

(1) any otherwise lawful activity conducted by a governmental entity of the United States, a State, or a political subdivision of a State; or

(2) the reporting of a suspected violation of law to any governmental entity of the United States, a State, or a political subdivision of a State, if such entity has lawful authority with respect to that violation.

(Added Pub. L. 104-294, title I, §101(a), Oct. 11, 1996, 110 Stat. 3489.)

§ 1834. Criminal forfeiture

Forfeiture, destruction, and restitution relating to this chapter shall be subject to section 2323, to the extent provided in that section, in addition to any other similar remedies provided by law.

(Added Pub. L. 104-294, title I, §101(a), Oct. 11, 1996, 110 Stat. 3489; amended Pub. L. 110-403, title II, §207, Oct. 13, 2008, 122 Stat. 4263.)

AMENDMENTS

2008—Pub. L. 110-403 amended section generally. Prior to amendment, section related to forfeiture of property either derived from or used to commit a violation of this chapter.

§ 1835. Orders to preserve confidentiality

In any prosecution or other proceeding under this chapter, the court shall enter such orders

and take such other action as may be necessary and appropriate to preserve the confidentiality of trade secrets, consistent with the requirements of the Federal Rules of Criminal and Civil Procedure, the Federal Rules of Evidence, and all other applicable laws. An interlocutory appeal by the United States shall lie from a decision or order of a district court authorizing or directing the disclosure of any trade secret.

(Added Pub. L. 104-294, title I, §101(a), Oct. 11, 1996, 110 Stat. 3490.)

REFERENCES IN TEXT

The Federal Rules of Criminal Procedure, referred to in text, are set out in the Appendix to this title.

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

The Federal Rules of Evidence, referred to in text, are set out in the Appendix to Title 28.

§ 1836. Civil proceedings to enjoin violations

(a) The Attorney General may, in a civil action, obtain appropriate injunctive relief against any violation of this chapter.

(b) The district courts of the United States shall have exclusive original jurisdiction of civil actions under this section.

(Added Pub. L. 104-294, title I, §101(a), Oct. 11, 1996, 110 Stat. 3490; amended Pub. L. 107-273, div. B, title IV, §4002(e)(9), Nov. 2, 2002, 116 Stat. 1810.)

AMENDMENTS

2002—Subsec. (a). Pub. L. 107-273, §4002(e)(9)(A), substituted “this chapter” for “this section”.

Subsec. (b). Pub. L. 107-273, §4002(e)(9)(B), substituted “this section” for “this subsection”.

§ 1837. Applicability to conduct outside the United States

This chapter also applies to conduct occurring outside the United States if—

(1) the offender is a natural person who is a citizen or permanent resident alien of the United States, or an organization organized under the laws of the United States or a State or political subdivision thereof; or

(2) an act in furtherance of the offense was committed in the United States.

(Added Pub. L. 104-294, title I, §101(a), Oct. 11, 1996, 110 Stat. 3490.)

§ 1838. Construction with other laws

This chapter shall not be construed to preempt or displace any other remedies, whether civil or criminal, provided by United States Federal, State, commonwealth, possession, or territory law for the misappropriation of a trade secret, or to affect the otherwise lawful disclosure of information by any Government employee under section 552 of title 5 (commonly known as the Freedom of Information Act).

(Added Pub. L. 104-294, title I, §101(a), Oct. 11, 1996, 110 Stat. 3490.)

§ 1839. Definitions

As used in this chapter—

(1) the term “foreign instrumentality” means any agency, bureau, ministry, compo-

nent, institution, association, or any legal, commercial, or business organization, corporation, firm, or entity that is substantially owned, controlled, sponsored, commanded, managed, or dominated by a foreign government;

(2) the term “foreign agent” means any officer, employee, proxy, servant, delegate, or representative of a foreign government;

(3) the term “trade secret” means all forms and types of financial, business, scientific, technical, economic, or engineering information, including patterns, plans, compilations, program devices, formulas, designs, prototypes, methods, techniques, processes, procedures, programs, or codes, whether tangible or intangible, and whether or how stored, compiled, or memorialized physically, electronically, graphically, photographically, or in writing if—

(A) the owner thereof has taken reasonable measures to keep such information secret; and

(B) the information derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable through proper means by, the public; and

(4) the term “owner”, with respect to a trade secret, means the person or entity in whom or in which rightful legal or equitable title to, or license in, the trade secret is reposed.

(Added Pub. L. 104-294, title I, §101(a), Oct. 11, 1996, 110 Stat. 3490.)

CHAPTER 90A—PROTECTION OF UNBORN CHILDREN

Sec.

1841. Protection of unborn children.

§ 1841. Protection of unborn children

(a)(1) Whoever engages in conduct that violates any of the provisions of law listed in subsection (b) and thereby causes the death of, or bodily injury (as defined in section 1365) to, a child, who is in utero at the time the conduct takes place, is guilty of a separate offense under this section.

(2)(A) Except as otherwise provided in this paragraph, the punishment for that separate offense is the same as the punishment provided under Federal law for that conduct had that injury or death occurred to the unborn child’s mother.

(B) An offense under this section does not require proof that—

(i) the person engaging in the conduct had knowledge or should have had knowledge that the victim of the underlying offense was pregnant; or

(ii) the defendant intended to cause the death of, or bodily injury to, the unborn child.

(C) If the person engaging in the conduct thereby intentionally kills or attempts to kill the unborn child, that person shall instead of being punished under subparagraph (A), be punished as provided under sections 1111, 1112, and 1113 of this title for intentionally killing or attempting to kill a human being.