

cial Procedure] may be cited as the ‘Telemarketing Fraud Prevention Act of 1998.’”

#### SHORT TITLE OF 1996 AMENDMENTS

Pub. L. 104-294, §1, Oct. 11, 1996, 110 Stat. 3488, provided that: “This Act [see Tables for classification] may be cited as the ‘Economic Espionage Act of 1996.’”

Pub. L. 104-132, §1, Apr. 24, 1996, 110 Stat. 1214, provided that: “This Act [see Tables for classification] may be cited as the ‘Antiterrorism and Effective Death Penalty Act of 1996.’”

#### SHORT TITLE OF 1994 AMENDMENT

Pub. L. 103-322, title X, §100001, Sept. 13, 1994, 108 Stat. 1996, provided that: “This title [amending section 13 of this title and section 3751 of Title 42, The Public Health and Welfare] may be cited as the ‘Drunk Driving Child Protection Act of 1994.’”

#### SHORT TITLE OF 1990 AMENDMENT

Pub. L. 101-647, §1, Nov. 29, 1990, 104 Stat. 4789, provided that: “This Act [see Tables for classification] may be cited as the ‘Crime Control Act of 1990.’”

#### SHORT TITLE OF 1988 AMENDMENT

Pub. L. 100-690, title VII, §7011, Nov. 18, 1988, 102 Stat. 4395, provided that: “This subtitle [subtitle B (§§7011-7096) of title VII of Pub. L. 100-690, see Tables for classification] may be cited as the ‘Minor and Technical Criminal Law Amendments Act of 1988.’”

#### SHORT TITLE OF 1987 AMENDMENT

Pub. L. 100-185, §1, Dec. 11, 1987, 101 Stat. 1279, provided that: “This Act [enacting section 19 of this title, amending sections 18, 3013, 3559, 3571, 3572, 3573, 3611, 3612, and 3663 of this title and section 604 of Title 28, Judiciary and Judicial Procedure, and enacting provisions set out as notes under section 3611 of this title] may be cited as the ‘Criminal Fine Improvements Act of 1987.’”

#### SHORT TITLE OF 1986 AMENDMENT

Pub. L. 99-646, §1, Nov. 10, 1986, 100 Stat. 3592, provided that: “This Act [see Tables for classification] may be cited as the ‘Criminal Law and Procedure Technical Amendments Act of 1986.’”

#### SHORT TITLE OF 1984 AMENDMENT

Pub. L. 98-473, title II, §200, Oct. 12, 1984, 98 Stat. 1976, provided that: “This title [see Tables for classification] may be cited as the ‘Comprehensive Crime Control Act of 1984.’”

#### SEVERABILITY

Pub. L. 108-21, §2, Apr. 30, 2003, 117 Stat. 651, provided that: “If any provision of this Act [see Tables for classification], or the application of such provision to any person or circumstance, is held invalid, the remainder of this Act, and the application of such provision to other persons not similarly situated or to other circumstances, shall not be affected by such invalidation.”

Pub. L. 107-56, §2, Oct. 26, 2001, 115 Stat. 275, provided that: “Any provision of this Act [see Short Title of 2001 Amendment note above] held to be invalid or unenforceable by its terms, or as applied to any person or circumstance, shall be construed so as to give it the maximum effect permitted by law, unless such holding shall be one of utter invalidity or unenforceability, in which event such provision shall be deemed severable from this Act and shall not affect the remainder thereof or the application of such provision to other persons not similarly situated or to other, dissimilar circumstances.”

Pub. L. 104-132, title IX, §904, Apr. 24, 1996, 110 Stat. 1319, provided that: “If any provision of this Act [see Short Title of 1996 Amendments note above], an amendment made by this Act, or the application of such provision or amendment to any person or circumstance is

held to be unconstitutional, the remainder of this Act, the amendments made by this Act, and the application of the provisions of such to any person or circumstance shall not be affected thereby.”

## § 2. Principals

(a) Whoever commits an offense against the United States or aids, abets, counsels, commands, induces or procures its commission, is punishable as a principal.

(b) Whoever willfully causes an act to be done which if directly performed by him or another would be an offense against the United States, is punishable as a principal.

(June 25, 1948, ch. 645, 62 Stat. 684; Oct. 31, 1951, ch. 655, §17b, 65 Stat. 717.)

#### HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §550 (Mar. 4, 1909, ch. 321, §332, 35 Stat. 1152).

Section 2(a) comprises section 550 of title 18, U.S.C., 1940 ed., without change except in minor matters of phraseology.

Section 2(b) is added to permit the deletion from many sections throughout the revision of such phrases as “causes or procures”.

The section as revised makes clear the legislative intent to punish as a principal not only one who directly commits an offense and one who “aids, abets, counsels, commands, induces or procures” another to commit an offense, but also anyone who causes the doing of an act which if done by him directly would render him guilty of an offense against the United States.

It removes all doubt that one who puts in motion or assists in the illegal enterprise but causes the commission of an indispensable element of the offense by an innocent agent or instrumentality, is guilty as a principal even though he intentionally refrained from the direct act constituting the completed offense.

This accords with the following decisions: *Rothenburg v. United States*, 1918, 38 S. Ct. 18, 245 U.S. 480, 62 L. Ed. 414, and *United States v. Hodorowicz*, C. C. A. Ill. 1939, 105 F. 2d 218, certiorari denied, 60 S. Ct. 108, 308 U.S. 584, 84 L. Ed. 489. *United States v. Giles*, 1937, 57 S. Ct. 340, 300 U.S. 41, 81 L. Ed. 493, rehearing denied, 57 S. Ct. 505, 300 U.S. 687, 81 L. Ed. 888.

#### AMENDMENTS

1951—Subsec. (a). Act Oct. 31, 1951, inserted “punishable as”.

Subsec. (b). Act Oct. 31, 1951, inserted “willfully” before “causes”, and “or another” after “him”, and substituted “is punishable as a principal” for “is also a principal and punishable as such”.

## § 3. Accessory after the fact

Whoever, knowing that an offense against the United States has been committed, receives, relieves, comforts or assists the offender in order to hinder or prevent his apprehension, trial or punishment, is an accessory after the fact.

Except as otherwise expressly provided by any Act of Congress, an accessory after the fact shall be imprisoned not more than one-half the maximum term of imprisonment or (notwithstanding section 3571) fined not more than one-half the maximum fine prescribed for the punishment of the principal, or both; or if the principal is punishable by life imprisonment or death, the accessory shall be imprisoned not more than 15 years.

(June 25, 1948, ch. 645, 62 Stat. 684; Pub. L. 99-646, §43, Nov. 10, 1986, 100 Stat. 3601; Pub. L. 101-647, title XXXV, §3502, Nov. 29, 1990, 104 Stat. 4921;

Pub. L. 103-322, title XXXIII, §§330011(h), 330016(2)(A), Sept. 13, 1994, 108 Stat. 2145, 2148.)

#### HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §551 (Mar. 4, 1909, ch. 321, §333, 35 Stat. 1152).

The first paragraph is new. It is based upon authority of *Skelly v. United States* (C. C. A. Okl. 1935, 76 F. 2d 483, certiorari denied, 1935, 55 S. Ct. 914, 295 U.S. 757, 79 L. Ed. 1699), where the court defined an accessory after the fact as—

one who knowing a felony to have been committed by another, receives, relieves, comforts, or assists the felon in order to hinder the felon's apprehension, trial, or punishment—

and cited Jones' Blackstone, books 3 and 4, page 2204; *U.S. v. Hartwell* (Fed. Cas. No. 15,318); *Albritton v. State* (32 Fla. 358, 13 So. 955); *State v. Davis* (14 R. I. 281); *Schleeter v. Commonwealth* (218 Ky. 72, 290 S. W. 1075). (See also *State v. Potter*, 1942, 221 N. C. 153, 19 S. E. 2d 257; *Hunter v. State*, 1935, 128 Tex. Cr. R. 191, 79 S. W. 2d 855; *State v. Wells*, 1940, 195 La. 754, 197 So. 419.)

The second paragraph is from section 551 of title 18, U.S.C., 1940 ed. Here only slight changes were made in phraseology.

#### AMENDMENTS

1994—Pub. L. 103-322, §330016(2)(A), inserted “(notwithstanding section 3571)” before “fined not more than one-half” in second par.

Pub. L. 103-322, §330011(h), amended directory language of Pub. L. 101-647, §3502. See 1990 Amendment note below.

1990—Pub. L. 101-647, as amended by Pub. L. 103-322, §330011(h), substituted “15 years” for “ten years” in second par.

1986—Pub. L. 99-646 inserted “life imprisonment or” in second par.

#### EFFECTIVE DATE OF 1994 AMENDMENT

Pub. L. 103-322, title XXXIII, §330011(h), Sept. 13, 1994, 108 Stat. 2145, provided that the amendment made by that section is effective as of Nov. 29, 1990.

### § 4. Misprision of felony

Whoever, having knowledge of the actual commission of a felony cognizable by a court of the United States, conceals and does not as soon as possible make known the same to some judge or other person in civil or military authority under the United States, shall be fined under this title or imprisoned not more than three years, or both.

(June 25, 1948, ch. 645, 62 Stat. 684; Pub. L. 103-322, title XXXIII, §330016(1)(G), Sept. 13, 1994, 108 Stat. 2147.)

#### HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C. 1940 ed., §251 (Mar. 4, 1909, ch. 321, §146, 35 Stat. 1114).

Changes in phraseology only.

#### AMENDMENTS

1994—Pub. L. 103-322 substituted “fined under this title” for “fined not more than \$500”.

### § 5. United States defined

The term “United States”, as used in this title in a territorial sense, includes all places and waters, continental or insular, subject to the jurisdiction of the United States, except the Canal Zone.

(June 25, 1948, ch. 645, 62 Stat. 685.)

#### HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §§39, 133, 346, 381, 502, and 632, and section 40 of title 50, U.S.C., 1940 ed., War and National Defense (June 15, 1917, ch. 30, title XIII, §1, 40 Stat. 231).

Section consolidates the first sentence of section 39, all of sections 133, 346, and 632, and the second sentences, respectively, of sections 381 and 502, all of title 18, U.S.C., 1940 ed., and section 40 of title 50, U.S.C., 1940 ed., War and National Defense, with minor changes in phraseology.

All of these sections and parts of sections were derived from section 1 of title XIII of said act of June 15, 1917. Said section 40 of title 50, U.S.C., War and National Defense, has also been retained in that title, as it still relates to some sections therein which were not transferred to this title.

The remainder of said section 39 of title 18, U.S.C., 1940 ed., which was derived from sections 2, 3, and 4 of title XIII of the act of June 15, 1917, relating to jurisdiction and other matters, is almost entirely obsolete. The provisions still in force are incorporated in section 3241 of this title.

The remaining provisions of said sections 381 and 502 of title 18, U.S.C., 1940 ed., which were derived from sources other than said section 1 of title XIII of the act of June 15, 1917, are incorporated in sections 1364 and 2275 of this title.

#### SENATE REVISION AMENDMENT

Words “, except the Canal Zone.” were substituted for the period in this section by Senate amendment. See Senate Report No. 1620, amendment No. 2, 80th Cong.

#### REFERENCES IN TEXT

For definition of Canal Zone, referred to in text, see section 3602(b) of Title 22, Foreign Relations and Intercourse.

### § 6. Department and agency defined

As used in this title:

The term “department” means one of the executive departments enumerated in section 1 of Title 5, unless the context shows that such term was intended to describe the executive, legislative, or judicial branches of the government.

The term “agency” includes any department, independent establishment, commission, administration, authority, board or bureau of the United States or any corporation in which the United States has a proprietary interest, unless the context shows that such term was intended to be used in a more limited sense.

(June 25, 1948, ch. 645, 62 Stat. 685.)

#### HISTORICAL AND REVISION NOTES

This section defines the terms “department” and “agency” of the United States. The word “department” appears 57 times in title 18, U.S.C., 1940 ed., and the word “agency” 14 times. It was considered necessary to define clearly these words in order to avoid possible litigation as to the scope or coverage of a given section containing such words. (See *United States v. Germaine*, 1878, 99 U.S. 508, 25 L. Ed. 482, for definition of words “department” or “head of department.”)

The phrase “corporation in which the United States has a proprietary interest” is intended to include those governmental corporations in which stock is not actually issued, as well as those in which stock is owned by the United States. It excludes those corporations in which the interest of the Government is custodial or incidental.

#### REFERENCES IN TEXT

Section 1 of Title 5, referred to in text, was repealed by Pub. L. 89-554, §8, Sept. 6, 1966, 80 Stat. 632, and reen-