

EFFECTIVE DATE OF 2016 AMENDMENT

Pub. L. 114-153, §2(e), May 11, 2016, 130 Stat. 381, provided that: “The amendments made by this section [amending this section and sections 1836 and 1839 of this title] shall apply with respect to any misappropriation of a trade secret (as defined in section 1839 of title 18, United States Code, as amended by this section) for which any act occurs on or after the date of the enactment of this Act [May 11, 2016].”

CONSTRUCTION OF 2016 AMENDMENT

Pub. L. 114-153, §2(f), May 11, 2016, 130 Stat. 382, provided that: “Nothing in the amendments made by this section [amending this section and sections 1836 and 1839 of this title] shall be construed to modify the rule of construction under section 1838 of title 18, United States Code, or to preempt any other provision of law.”

APPLICABILITY OF SECTION 2 OF PUB. L. 114-153 TO OTHER LAWS

Pub. L. 114-153, §2(g), May 11, 2016, 130 Stat. 382, provided that: “This section [amending this section and sections 1836 and 1839 of this title and enacting provisions set out as notes under this section] and the amendments made by this section shall not be construed to be a law pertaining to intellectual property for purposes of any other Act of Congress.”

§ 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

(a) IN GENERAL.—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.

(b) RIGHTS OF TRADE SECRET OWNERS.—The court may not authorize or direct the disclosure of any information the owner asserts to be a trade secret unless the court allows the owner the opportunity to file a submission under seal that describes the interest of the owner in keeping the information confidential. No submission under seal made under this subsection may be used in a prosecution under this chapter for any purpose other than those set forth in this section, or otherwise required by law. The provision of information relating to a trade secret to the United States or the court in connection with a prosecution under this chapter shall not constitute a waiver of trade secret protection, and

the disclosure of information relating to a trade secret in connection with a prosecution under this chapter shall not constitute a waiver of trade secret protection unless the trade secret owner expressly consents to such waiver.

(Added Pub. L. 104-294, title I, §101(a), Oct. 11, 1996, 110 Stat. 3490; amended Pub. L. 114-153, §3(a)(2), May 11, 2016, 130 Stat. 382.)

REFERENCES IN TEXT

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

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

The Federal Rules of Evidence, referred to in subsec. (a), are set out in the Appendix to Title 28.

AMENDMENTS

2016—Pub. L. 114-153 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

§ 1836. Civil proceedings

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

(b) PRIVATE CIVIL ACTIONS.—

(1) IN GENERAL.—An owner of a trade secret that is misappropriated may bring a civil action under this subsection if the trade secret is related to a product or service used in, or intended for use in, interstate or foreign commerce.

(2) CIVIL SEIZURE.—

(A) IN GENERAL.—

(i) APPLICATION.—Based on an affidavit or verified complaint satisfying the requirements of this paragraph, the court may, upon ex parte application but only in extraordinary circumstances, issue an order providing for the seizure of property necessary to prevent the propagation or dissemination of the trade secret that is the subject of the action.

(ii) REQUIREMENTS FOR ISSUING ORDER.—The court may not grant an application under clause (i) unless the court finds that it clearly appears from specific facts that—

(I) an order issued pursuant to Rule 65 of the Federal Rules of Civil Procedure or another form of equitable relief would be inadequate to achieve the purpose of this paragraph because the party to which the order would be issued would evade, avoid, or otherwise not comply with such an order;

(II) an immediate and irreparable injury will occur if such seizure is not ordered;

(III) the harm to the applicant of denying the application outweighs the harm to the legitimate interests of the person against whom seizure would be ordered of granting the application and substantially outweighs the harm to any third parties who may be harmed by such seizure;

(IV) the applicant is likely to succeed in showing that—

(aa) the information is a trade secret; and