

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

### § 1838. Construction with other laws

Except as provided in section 1833(b), 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; amended Pub. L. 114-153, §7(b), May 11, 2016, 130 Stat. 385.)

#### Editorial Notes

##### AMENDMENTS

2016—Pub. L. 114-153 substituted “Except as provided in section 1833(b), this chapter” for “This chapter”.

### § 1839. Definitions

As used in this chapter—

(1) the term “foreign instrumentality” means any agency, bureau, ministry, component, 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, another person who can obtain economic value from the disclosure or use of the information;

(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;

(5) the term “misappropriation” means—

(A) acquisition of a trade secret of another by a person who knows or has reason to know that the trade secret was acquired by improper means; or

(B) disclosure or use of a trade secret of another without express or implied consent by a person who—

(i) used improper means to acquire knowledge of the trade secret;

(ii) at the time of disclosure or use, knew or had reason to know that the knowledge of the trade secret was—

(I) derived from or through a person who had used improper means to acquire the trade secret;

(II) acquired under circumstances giving rise to a duty to maintain the secrecy of the trade secret or limit the use of the trade secret; or

(III) derived from or through a person who owed a duty to the person seeking relief to maintain the secrecy of the trade secret or limit the use of the trade secret; or

(iii) before a material change of the position of the person, knew or had reason to know that—

(I) the trade secret was a trade secret; and

(II) knowledge of the trade secret had been acquired by accident or mistake;

(6) the term “improper means”—

(A) includes theft, bribery, misrepresentation, breach or inducement of a breach of a duty to maintain secrecy, or espionage through electronic or other means; and

(B) does not include reverse engineering, independent derivation, or any other lawful means of acquisition; and

(7) the term “Trademark Act of 1946” means the Act entitled “An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes<sup>1</sup>, approved July 5, 1946 (15 U.S.C. 1051 et seq.) (commonly referred to as the ‘Trademark Act of 1946’ or the ‘Lanham Act’)”<sup>1</sup>.

(Added Pub. L. 104-294, title I, §101(a), Oct. 11, 1996, 110 Stat. 3490; amended Pub. L. 114-153, §2(b), May 11, 2016, 130 Stat. 380.)

#### Editorial Notes

##### REFERENCES IN TEXT

The Trademark Act of 1946, referred to in par. (7), is act July 5, 1946, ch. 540, 60 Stat. 427, also popularly known as the Lanham Act, which is classified generally to chapter 22 (§1051 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 1051 of Title 15 and Tables.

##### AMENDMENTS

2016—Par. (3)(B). Pub. L. 114-153, §2(b)(1)(A), substituted “another person who can obtain economic value from the disclosure or use of the information” for “the public”.

Pars. (5) to (7). Pub. L. 114-153, §2(b)(1)(B)–(3), added pars. (5) to (7).

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 2016 AMENDMENT

Amendment by Pub. L. 114-153 applicable with respect to any misappropriation of a trade secret (as de-

<sup>1</sup> So in original. The closing quotation marks probably should follow “purposes” instead of “‘Lanham Act’)”.

fined in this section) for which any act occurs on or after May 11, 2016, see section 2(e) of Pub. L. 114-153, set out as a note under section 1833 of this title.

### 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.

(D) Notwithstanding any other provision of law, the death penalty shall not be imposed for an offense under this section.

(b) The provisions referred to in subsection (a) are the following:

(1) Sections 36, 37, 43, 111, 112, 113, 114, 115, 229, 242, 245, 247, 248, 351, 831, 844(d), (f), (h)(1), and (i), 924(j), 930, 1111, 1112, 1113, 1114, 1116, 1118, 1119, 1120, 1121, 1153(a), 1201(a), 1203, 1365(a), 1501, 1503, 1505, 1512, 1513, 1751, 1864, 1951, 1952 (a)(1)(B), (a)(2)(B), and (a)(3)(B), 1958, 1959, 1992, 2113, 2114, 2116, 2118, 2119, 2191, 2231, 2241(a), 2245, 2261, 2261A, 2280, 2281, 2332, 2332a, 2332b, 2340A, and 2441 of this title.

(2) Section 408(e) of the Controlled Substances Act of 1970 (21 U.S.C. 848(e)).

(3) Section 202 of the Atomic Energy Act of 1954 (42 U.S.C. 2283).

(c) Nothing in this section shall be construed to permit the prosecution—

(1) of any person for conduct relating to an abortion for which the consent of the pregnant woman, or a person authorized by law to act on her behalf, has been obtained or for which such consent is implied by law;

(2) of any person for any medical treatment of the pregnant woman or her unborn child; or

(3) of any woman with respect to her unborn child.

(d) As used in this section, the term “unborn child” means a child in utero, and the term

“child in utero” or “child, who is in utero” means a member of the species *homo sapiens*, at any stage of development, who is carried in the womb.

(Added Pub. L. 108-212, §2(a), Apr. 1, 2004, 118 Stat. 568.)

#### Editorial Notes

##### REFERENCES IN TEXT

Section 202 of the Atomic Energy Act of 1954 (42 U.S.C. 2283), referred to in subsec. (b)(3), probably means section 235 of the Atomic Energy Act of 1954, act Aug. 1, 1946, ch. 724, title I, as added by Pub. L. 96-295, title II, §202(a), June 30, 1980, 94 Stat. 786, which is classified to section 2283 of Title 42, The Public Health and Welfare. Section 202 of the Atomic Energy Act of 1954, which related to the authority of the Joint Committee on Atomic Energy, was classified to section 2252 of Title 42 and was repealed by act Aug. 1, 1946, ch. 724, title I, §302(a), as added Pub. L. 95-110, §1, Sept. 20, 1977, 91 Stat. 884; renumbered title I, Pub. L. 102-486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944.

#### Statutory Notes and Related Subsidiaries

##### SHORT TITLE OF 2004 AMENDMENT

Pub. L. 108-212, §1, Apr. 1, 2004, 118 Stat. 568, provided that: “This Act [enacting this chapter and section 919a of Title 10, Armed Forces] may be cited as the ‘Unborn Victims of Violence Act of 2004’ or ‘Laci and Conner’s Law’.”

#### CHAPTER 91—PUBLIC LANDS

Sec.  
1851. Coal depredations.  
1852. Timber removed or transported.  
1853. Trees cut or injured.  
1854. Trees boxed for pitch or turpentine.  
1855. Timber set afire.  
1856. Fires left unattended and unextinguished.  
1857. Fences destroyed; livestock entering.  
1858. Survey marks destroyed or removed.  
1859. Surveys interrupted.  
1860. Bids at land sales.  
1861. Deception of prospective purchasers.  
[1862. Repealed.]  
1863. Trespass on national forest lands.  
1864. Hazardous or injurious devices on Federal lands.  
1865. National Park Service.  
1866. Historic, archeologic, or prehistoric items and antiquities.

#### Editorial Notes

##### AMENDMENTS

2014—Pub. L. 113-287, §4(a)(2), Dec. 19, 2014, 128 Stat. 3261, added items 1865 and 1866.

1990—Pub. L. 101-647, title XXXV, §3554, Nov. 29, 1990, 104 Stat. 4927, struck out item 1862 “Trespass on Bull Run National Forest”.

1988—Pub. L. 100-690, title VI, §6254(g), Nov. 18, 1988, 102 Stat. 4367, added item 1864.

1949—Act May 24, 1949, ch. 139, §41, 63 Stat. 95, substituted in analysis “1859” for “1959”, and added item 1863.

#### § 1851. Coal depredations

Whoever mines or removes coal of any character, whether anthracite, bituminous, or lignite, from beds or deposits in lands of, or reserved to the United States, with intent wrongfully to appropriate, sell, or dispose of the same, shall be fined under this title or imprisoned not more than one year, or both.