

casional and ancillary to the primary business of that organization.

(b) The provisions of sections 1301, 1302, and 1303 shall not apply to the transportation or mailing—

(1) to addresses within a State of equipment, tickets, or material concerning a lottery which is conducted by that State acting under the authority of State law; or

(2) to an addressee within a foreign country of equipment, tickets, or material designed to be used within that foreign country in a lottery which is authorized by the law of that foreign country.

(c) For the purposes of this section (1) “State” means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States; and (2) “foreign country” means any empire, country, dominion, colony, or protectorate, or any subdivision thereof (other than the United States, its territories or possessions).

(d) For the purposes of subsection (b) of this section “lottery” means the pooling of proceeds derived from the sale of tickets or chances and allotting those proceeds or parts thereof by chance to one or more chance takers or ticket purchasers. “Lottery” does not include the placing or accepting of bets or wagers on sporting events or contests. For purposes of this section, the term a “not-for-profit organization” means any organization that would qualify as tax exempt under section 501 of the Internal Revenue Code of 1986.

(Added Pub. L. 93-583, §1, Jan. 2, 1975, 88 Stat. 1916; amended Pub. L. 94-525, §1, Oct. 17, 1976, 90 Stat. 2478; Pub. L. 96-90, §1, Oct. 23, 1979, 93 Stat. 698; Pub. L. 100-625, §§2(a), (b), 3(a)(1), (3), Nov. 7, 1988, 102 Stat. 3205, 3206.)

#### REFERENCES IN TEXT

Section 501 of the Internal Revenue Code of 1986, referred to in subsec. (d), is classified to section 501 of Title 26, Internal Revenue Code.

#### AMENDMENTS

1988—Pub. L. 100-625, §3(a)(1), substituted “Exceptions relating to certain advertisements and other information and to State-conducted lotteries” for “State-conducted lotteries” in section catchline.

Subsec. (a). Pub. L. 100-625, §2(a), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: “The provisions of sections 1301, 1302, 1303, and 1304 shall not apply to an advertisement, list of prizes, or information concerning a lottery conducted by a State acting under the authority of State law—

“(1) contained in a newspaper published in that State or in an adjacent State which conducts such a lottery, or

“(2) broadcast by a radio or television station licensed to a location in that State or an adjacent State which conducts such a lottery.”

Subsec. (d). Pub. L. 100-625, §§2(b), 3(a)(3), inserted “subsection (b) of” after “purposes of” and inserted at end “For purposes of this section, the term a ‘not-for-profit organization’ means any organization that would qualify as tax exempt under section 501 of the Internal Revenue Code of 1986.”

1979—Subsec. (b). Pub. L. 96-90, §1(a), incorporated existing provision in text designated cl. (1), included mailing of equipment, and added cl. (2).

Subsec. (c). Pub. L. 96-90, §1(b), designated existing text as cl. (1) and added cl. (2).

1976—Subsec. (a)(1). Pub. L. 94-525 inserted “or in an adjacent State which conducts such a lottery” after “State”.

#### EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-625 effective 18 months after Nov. 7, 1988, see section 5 of Pub. L. 100-625, set out as a note under section 1304 of this title.

#### SEVERABILITY

Section 4 of Pub. L. 100-625 provided that: “If any provision of this Act or the amendments made by this Act [amending sections 1304 and 1307 of this title and section 3005 of Title 39, Postal Service, and enacting provisions set out as notes under sections 1301 and 1304 of this title], or the application of such provision to any person or circumstance, is held invalid, the remainder of this Act and the amendments made by 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.”

### CHAPTER 63—MAIL FRAUD AND OTHER FRAUD OFFENSES

#### Sec.

- 1341. Frauds and swindles.
- 1342. Fictitious name or address.
- 1343. Fraud by wire, radio, or television.
- 1344. Bank fraud.
- 1345. Injunctions against fraud.
- 1346. Definition of “scheme or artifice to defraud”.
- 1347. Health care fraud.
- 1348. Securities and commodities fraud.
- 1349. Attempt and conspiracy.
- 1350. Failure of corporate officers to certify financial reports.
- 1351. Fraud in foreign labor contracting.

#### AMENDMENTS

2009—Pub. L. 111-21, §2(e)(2), May 20, 2009, 123 Stat. 1618, inserted “and commodities” after “Securities” in item 1348.

2008—Pub. L. 110-457, title II, §222(e)(1), (3), Dec. 23, 2008, 122 Stat. 5070, 5071, inserted “AND OTHER FRAUD OFFENSES” after “MAIL FRAUD” in chapter heading and added item 1351.

2002—Pub. L. 107-204, title VIII, §807(b), title IX, §§902(b), 906(b), July 30, 2002, 116 Stat. 804-806, added items 1348 to 1350.

1996—Pub. L. 104-191, title II, §242(a)(2), Aug. 21, 1996, 110 Stat. 2016, added item 1347.

1990—Pub. L. 101-647, title XXXV, §3541, Nov. 29, 1990, 104 Stat. 4925, substituted “or” for “and” in item 1342.

1988—Pub. L. 100-690, title VII, §7603(b), Nov. 18, 1988, 102 Stat. 4508, added item 1346.

1984—Pub. L. 98-473, title II, §§1108(b), 1205(b), Oct. 12, 1984, 98 Stat. 2147, 2153, added items 1344 and 1345.

1952—Act July 16, 1952, ch. 879, §18(b), 66 Stat. 722, added item 1343.

#### § 1341. Frauds and swindles

Whoever, having devised or intending to devise any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretenses, representations, or promises, or to sell, dispose of, loan, exchange, alter, give away, distribute, supply, or furnish or procure for unlawful use any counterfeit or spurious coin, obligation, security, or other article, or anything represented to be or intimated or held out to be such counterfeit or spurious article, for the purpose of executing such scheme or artifice or attempting so to do, places in any post office or authorized depository for mail matter, any matter or thing whatever to be sent or delivered by the Postal Service, or deposits or

causes to be deposited any matter or thing whatever to be sent or delivered by any private or commercial interstate carrier, or takes or receives therefrom, any such matter or thing, or knowingly causes to be delivered by mail or such carrier according to the direction thereon, or at the place at which it is directed to be delivered by the person to whom it is addressed, any such matter or thing, shall be fined under this title or imprisoned not more than 20 years, or both. If the violation occurs in relation to, or involving any benefit authorized, transported, transmitted, transferred, disbursed, or paid in connection with, a presidentially declared major disaster or emergency (as those terms are defined in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122)), or affects a financial institution, such person shall be fined not more than \$1,000,000 or imprisoned not more than 30 years, or both.

(June 25, 1948, ch. 645, 62 Stat. 763; May 24, 1949, ch. 139, § 34, 63 Stat. 94; Pub. L. 91-375, § (6)(j)(11), Aug. 12, 1970, 84 Stat. 778; Pub. L. 101-73, title IX, § 961(i), Aug. 9, 1989, 103 Stat. 500; Pub. L. 101-647, title XXV, § 2504(h), Nov. 29, 1990, 104 Stat. 4861; Pub. L. 103-322, title XXV, § 250006, title XXXIII, § 330016(1)(H), Sept. 13, 1994, 108 Stat. 2087, 2147; Pub. L. 107-204, title IX, § 903(a), July 30, 2002, 116 Stat. 805; Pub. L. 110-179, § 4, Jan. 7, 2008, 121 Stat. 2557.)

#### HISTORICAL AND REVISION NOTES

##### 1948 ACT

Based on title 18, U.S.C., 1940 ed., § 338 (Mar. 4, 1909, ch. 321, § 215, 35 Stat. 1130).

The obsolete argot of the underworld was deleted as suggested by Hon. Emerich B. Freed, United States district judge, in a paper read before the 1944 Judicial Conference for the sixth circuit in which he said:

A brief reference to § 1341, which proposes to reenact the present section covering the use of the mails to defraud. This section is almost a page in length, is involved, and contains a great deal of superfluous language, including such terms as "sawdust swindle, green articles, green coin, green goods and green cigars." This section could be greatly simplified, and now-meaningless language eliminated.

The other surplusage was likewise eliminated and the section simplified without change of meaning.

A reference to causing to be placed any letter, etc. in any post office, or station thereof, etc. was omitted as unnecessary because of definition of "principal" in section 2 of this title.

##### 1949 ACT

This section [section 34] corrects a typographical error in section 1341 of title 18, U.S.C.

#### AMENDMENTS

2008—Pub. L. 110-179 inserted "occurs in relation to, or involving any benefit authorized, transported, transmitted, transferred, disbursed, or paid in connection with, a presidentially declared major disaster or emergency (as those terms are defined in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122)), or" after "If the violation".

2002—Pub. L. 107-204 substituted "20 years" for "five years".

1994—Pub. L. 103-322, § 330016(1)(H), substituted "fined under this title" for "fined not more than \$1,000" after "thing, shall be".

Pub. L. 103-322, § 250006, inserted "or deposits or causes to be deposited any matter or thing whatever to

be sent or delivered by any private or commercial interstate carrier," after "Postal Service," and "or such carrier" after "causes to be delivered by mail".

1990—Pub. L. 101-647 substituted "30" for "20" before "years".

1989—Pub. L. 101-73 inserted at end "If the violation affects a financial institution, such person shall be fined not more than \$1,000,000 or imprisoned not more than 20 years, or both."

1970—Pub. L. 91-375 substituted "Postal Service" for "Post Office Department".

1949—Act May 24, 1949, substituted "of" for "or" after "dispose".

#### EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-375 effective within 1 year after Aug. 12, 1970, on date established therefor by Board of Governors of United States Postal Service and published by it in Federal Register, see section 15(a) of Pub. L. 91-375, set out as an Effective Date note preceding section 101 of Title 39, Postal Service.

#### SHORT TITLE OF 2002 AMENDMENT

Pub. L. 107-204, title IX, § 901, July 30, 2002, 116 Stat. 804, provided that: "This title [enacting sections 1349 and 1350 of this title, amending this section, section 1343 of this title, and section 1131 of Title 29, Labor, and enacting provisions set out as notes under section 994 of Title 28, Judiciary and Judicial Procedure] may be cited as the 'White-Collar Crime Penalty Enhancement Act of 2002'."

### § 1342. Fictitious name or address

Whoever, for the purpose of conducting, promoting, or carrying on by means of the Postal Service, any scheme or device mentioned in section 1341 of this title or any other unlawful business, uses or assumes, or requests to be addressed by, any fictitious, false, or assumed title, name, or address or name other than his own proper name, or takes or receives from any post office or authorized depository of mail matter, any letter, postal card, package, or other mail matter addressed to any such fictitious, false, or assumed title, name, or address, or name other than his own proper name, shall be fined under this title or imprisoned not more than five years, or both.

(June 25, 1948, ch. 645, 62 Stat. 763; Pub. L. 91-375, § 6(j)(12), Aug. 12, 1970, 84 Stat. 778; Pub. L. 103-322, title XXXIII, § 330016(1)(H), Sept. 13, 1994, 108 Stat. 2147.)

#### HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 339 (Mar. 4, 1909, ch. 321, § 216, 35 Stat. 1131).

The punishment language used in section 1341 of this title was substituted in lieu of the reference to it in this section.

Minor changes in phraseology were made.

#### AMENDMENTS

1994—Pub. L. 103-322 substituted "fined under this title" for "fined not more than \$1,000".

1970—Pub. L. 91-375 substituted "Postal Service" for "Post Office Department of the United States".

#### EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-375 effective within 1 year after Aug. 12, 1970, on date established therefor by Board of Governors of United States Postal Service and published by it in Federal Register, see section 15(a) of Pub. L. 91-375, set out as an Effective Date note preceding section 101 of Title 39, Postal Service.

**§ 1343. Fraud by wire, radio, or television**

Whoever, having devised or intending to devise any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretenses, representations, or promises, transmits or causes to be transmitted by means of wire, radio, or television communication in interstate or foreign commerce, any writings, signs, signals, pictures, or sounds for the purpose of executing such scheme or artifice, shall be fined under this title or imprisoned not more than 20 years, or both. If the violation occurs in relation to, or involving any benefit authorized, transported, transmitted, transferred, disbursed, or paid in connection with, a presidentially declared major disaster or emergency (as those terms are defined in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122)), or affects a financial institution, such person shall be fined not more than \$1,000,000 or imprisoned not more than 30 years, or both.

(Added July 16, 1952, ch. 879, § 18(a), 66 Stat. 722; amended July 11, 1956, ch. 561, 70 Stat. 523; Pub. L. 101-73, title IX, § 961(j), Aug. 9, 1989, 103 Stat. 500; Pub. L. 101-647, title XXV, § 2504(i), Nov. 29, 1990, 104 Stat. 4861; Pub. L. 103-322, title XXXIII, § 330016(1)(H), Sept. 13, 1994, 108 Stat. 2147; Pub. L. 107-204, title IX, § 903(b), July 30, 2002, 116 Stat. 805; Pub. L. 110-179, § 3, Jan. 7, 2008, 121 Stat. 2557.)

## AMENDMENTS

2008—Pub. L. 110-179 inserted “occurs in relation to, or involving any benefit authorized, transported, transmitted, transferred, disbursed, or paid in connection with, a presidentially declared major disaster or emergency (as those terms are defined in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122)), or” after “If the violation”.

2002—Pub. L. 107-204 substituted “20 years” for “five years”.

1994—Pub. L. 103-322 substituted “fined under this title” for “fined not more than \$1,000”.

1990—Pub. L. 101-647 substituted “30” for “20” before “years”.

1989—Pub. L. 101-73 inserted at end “If the violation affects a financial institution, such person shall be fined not more than \$1,000,000 or imprisoned not more than 20 years, or both.”

1956—Act July 11, 1956, substituted “transmitted by means of wire, radio, or television communication in interstate or foreign commerce” for “transmitted by means of interstate wire, radio, or television communication”.

**§ 1344. Bank fraud**

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

(1) to defraud a financial institution; or

(2) to obtain any of the moneys, funds, credits, assets, securities, or other property owned by, or under the custody or control of, a financial institution, by means of false or fraudulent pretenses, representations, or promises;

shall be fined not more than \$1,000,000 or imprisoned not more than 30 years, or both.

(Added Pub. L. 98-473, title II, § 1108(a), Oct. 12, 1984, 98 Stat. 2147; amended Pub. L. 101-73, title IX, § 961(k), Aug. 9, 1989, 103 Stat. 500; Pub. L.

101-647, title XXV, § 2504(j), Nov. 29, 1990, 104 Stat. 4861.)

## AMENDMENTS

1990—Pub. L. 101-647 substituted “30” for “20” before “years”.

1989—Pub. L. 101-73 amended section generally, restating former subsec. (a) and striking out former subsec. (b) which defined “federally chartered or insured financial institution”. Prior to amendment, subsec. (a) read as follows: “Whoever knowingly executes, or attempts to execute, a scheme or artifice—

“(1) to defraud a federally chartered or insured financial institution; or

“(2) to obtain any of the moneys, funds, credits, assets, securities or other property owned by or under the custody or control of a federally chartered or insured financial institution by means of false or fraudulent pretenses, representations, or promises, shall be fined not more than \$10,000, or imprisoned not more than five years, or both.”

**§ 1345. Injunctions against fraud**

(a)(1) If a person is—

(A) violating or about to violate this chapter or section 287, 371 (insofar as such violation involves a conspiracy to defraud the United States or any agency thereof), or 1001 of this title;

(B) committing or about to commit a banking law violation (as defined in section 3322(d) of this title); or

(C) committing or about to commit a Federal health care offense;

the Attorney General may commence a civil action in any Federal court to enjoin such violation.

(2) If a person is alienating or disposing of property, or intends to alienate or dispose of property, obtained as a result of a banking law violation (as defined in section 3322(d) of this title) or a Federal health care offense or property which is traceable to such violation, the Attorney General may commence a civil action in any Federal court—

(A) to enjoin such alienation or disposition of property; or

(B) for a restraining order to—

(i) prohibit any person from withdrawing, transferring, removing, dissipating, or disposing of any such property or property of equivalent value; and

(ii) appoint a temporary receiver to administer such restraining order.

(3) A permanent or temporary injunction or restraining order shall be granted without bond.

(b) The court shall proceed as soon as practicable to the hearing and determination of such an action, and may, at any time before final determination, enter such a restraining order or 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 subject 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 finan-

cial 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.                                    |
| 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.

<sup>1</sup> So in original. Probably should be “of”.

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 depredation 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.

Pub. L. 104-294, §§601(a)(3), 606(a), in second par., substituted “fine under this title” for “fine of under this title” in two places and “\$1,000” for “\$100” in two places.

1994—Pub. L. 103-322, §320903(d)(1)(A), inserted “or attempts to commit any of the foregoing offenses” before “shall be punished” in first par.

Pub. L. 103-322, §330016(1)(H), (L), in second par., substituted “under this title” for “not more than \$10,000” before “or imprisonment for not more than ten years” and for “not more than \$1,000” before “or by imprisonment for not more than one year”.