

By Senator Bradley

5-01553-21

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1 A bill to be entitled
2 An act relating to corporate espionage; providing a
3 short title; amending s. 812.081, F.S.; providing
4 definitions; prohibiting receipt of unlawfully
5 obtained trade secrets; providing a penalty;
6 reclassifying the penalty and increasing the offense
7 severity ranking for receiving, obtaining, or using
8 trade secrets to benefit a foreign government, foreign
9 agent, or other foreign entity; requiring a court to
10 order specified restitution for a violation; amending
11 s. 921.0022, F.S.; conforming provisions to changes
12 made by the act; providing an effective date.

13
14 Be It Enacted by the Legislature of the State of Florida:

15
16 Section 1. This act may be cited as the "Eliminating
17 Corporate Espionage in Florida Act."

18 Section 2. Section 812.081, Florida Statutes, is amended to
19 read:

20 812.081 Trade secrets; definitions; theft, ~~embezzlement~~;
21 unlawful copying; unlawful receipt; providing to foreign
22 entities; penalties; restitution ~~definitions~~; ~~penalty~~.-

23 (1) As used in this section, the term:

24 (a) "Article" means any object, device, machine, material,
25 substance, or composition of matter, or any mixture or copy
26 thereof, whether in whole or in part, including any complete or
27 partial writing, record, recording, drawing, sample, specimen,
28 prototype model, photograph, microorganism, blueprint, map, or
29 copy thereof.

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30 (e)~~(b)~~ "Representing" means completely or partially
31 describing, depicting, embodying, containing, constituting,
32 reflecting, or recording.

33 (c) "Obtains or uses" has the same meaning as provided in
34 s. 812.012(3).

35 (d) "Person" means a natural person, corporation, business
36 trust, estate, trust, partnership, association, joint venture,
37 government, governmental subdivision or agency, or any other
38 legal or commercial entity.

39 (f)~~(e)~~ "Trade secret" means the whole or any portion or
40 phase of any formula, pattern, device, combination of devices,
41 or compilation of information which is for use, or is used, in
42 the operation of a business and which provides the business an
43 advantage, or an opportunity to obtain an advantage, over those
44 who do not know or use it. The term includes any scientific,
45 technical, or commercial information, including financial
46 information, and includes any design, process, procedure, list
47 of suppliers, list of customers, business code, or improvement
48 thereof. Irrespective of novelty, invention, patentability, the
49 state of the prior art, and the level of skill in the business,
50 art, or field to which the subject matter pertains, a trade
51 secret is considered to be:

- 52 1. Secret;
- 53 2. Of value;
- 54 3. For use or in use by the business; and
- 55 4. Of advantage to the business, or providing an
56 opportunity to obtain an advantage, over those who do not know
57 or use it

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59 when the owner thereof takes measures to prevent it from
60 becoming available to persons other than those selected by the
61 owner to have access thereto for limited purposes.

62 (b)~~(d)~~ "Copy" means any duplicate, facsimile, replica,
63 photograph, or other reproduction in whole or in part of an
64 article and any note, drawing, or sketch made of or from an
65 article or part or portion thereof.

66 (2) A Any person who, willfully and without authorization,
67 obtains or uses ~~with intent to deprive or withhold from the~~
68 ~~owner thereof the control of a trade secret, or with an intent~~
69 ~~to appropriate a trade secret to his or her own use or to the~~
70 ~~use of another, steals or embezzles~~ an article representing a
71 trade secret or ~~without authority~~ makes or causes to be made a
72 copy of an article representing a trade secret commits a felony
73 of the third degree, punishable as provided in s. 775.082, ~~or~~ s.
74 775.083, or s. 775.084.

75 (3) A person who intentionally receives, buys, or possesses
76 an article representing a trade secret, knowing such trade
77 secret to be obtained or used or copied without authorization,
78 commits a felony of the third degree, punishable as provided in
79 s. 775.082, s. 775.083, or s. 775.084.

80 (4) Whenever any person is charged with committing an
81 offense under this section and he or she commits the offense
82 with the intent to benefit a foreign government, foreign agent,
83 or other foreign entity against the interest of the state, the
84 offense for which the person is charged shall be reclassified as
85 a felony of the second degree, punishable as provided in s.
86 775.082, s. 775.083, or s. 775.084. For purposes of sentencing
87 under chapter 921, a felony offense that is reclassified under

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88 this subsection is ranked one level above the ranking under s.
 89 921.0022 or s. 921.0023 of the offense committed.

90 (5) A court shall order a person convicted of violating
 91 this section to pay restitution, which shall include the value
 92 of the benefit derived from the offense, including any expenses
 93 for research and design and other costs of reproducing the trade
 94 secret that the person has avoided by committing the offense.

95 (6) In a prosecution for a violation of this section, the
 96 fact that the person so charged returned or intended to return
 97 the ~~unlawfully obtained, used, article so stolen, embezzled,~~ or
 98 copied ~~article~~ is not a defense.

99 Section 3. Paragraph (a) of subsection (3) of section
 100 921.0022, Florida Statutes, is amended to read:

101 921.0022 Criminal Punishment Code; offense severity ranking
 102 chart.-

103 (3) OFFENSE SEVERITY RANKING CHART

104 (a) LEVEL 1

105

Florida Statute	Felony Degree	Description
24.118(3) (a)	3rd	Counterfeit or altered state lottery ticket.
212.054(2) (b)	3rd	Discretionary sales surtax; limitations, administration, and collection.
212.15(2) (b)	3rd	Failure to remit sales taxes,

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amount \$1,000 or more but less than \$20,000.

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316.1935 (1) 3rd Fleeing or attempting to elude law enforcement officer.

110

319.30 (5) 3rd Sell, exchange, give away certificate of title or identification number plate.

111

319.35 (1) (a) 3rd Tamper, adjust, change, etc., an odometer.

112

320.26 (1) (a) 3rd Counterfeit, manufacture, or sell registration license plates or validation stickers.

113

322.212 (1) (a) - (c) 3rd Possession of forged, stolen, counterfeit, or unlawfully issued driver license; possession of simulated identification.

114

322.212 (4) 3rd Supply or aid in supplying unauthorized driver license or identification card.

115

322.212 (5) (a) 3rd False application for driver license or identification card.

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116

414.39(3)(a) 3rd Fraudulent misappropriation of public assistance funds by employee/official, value more than \$200.

117

443.071(1) 3rd False statement or representation to obtain or increase reemployment assistance benefits.

118

509.151(1) 3rd Defraud an innkeeper, food or lodging value \$1,000 or more.

119

517.302(1) 3rd Violation of the Florida Securities and Investor Protection Act.

120

713.69 3rd Tenant removes property upon which lien has accrued, value \$1,000 or more.

121

812.014(3)(c) 3rd Petit theft (3rd conviction); theft of any property not specified in subsection (2).

122

812.081(2) & (3) 3rd Obtaining, using, or copying
~~812.081(2)~~ ~~Unlawfully makes or causes to be made a reproduction of a~~

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trade secret; unlawfully
receiving, buying, or
possessing a trade secret.

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815.04 (5) (a) 3rd Offense against intellectual
property (i.e., computer
programs, data).

124

817.52 (2) 3rd Hiring with intent to defraud,
motor vehicle services.

125

817.569 (2) 3rd Use of public record or public
records information or
providing false information to
facilitate commission of a
felony.

126

826.01 3rd Bigamy.

127

828.122 (3) 3rd Fighting or baiting animals.

128

831.04 (1) 3rd Any erasure, alteration, etc.,
of any replacement deed, map,
plat, or other document listed
in s. 92.28.

129

831.31 (1) (a) 3rd Sell, deliver, or possess
counterfeit controlled
substances, all but s.

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893.03(5) drugs.

130

832.041(1) 3rd Stopping payment with intent to defraud \$150 or more.

131

832.05(2)(b) & 3rd Knowing, making, issuing (4)(c) worthless checks \$150 or more or obtaining property in return for worthless check \$150 or more.

132

838.15(2) 3rd Commercial bribe receiving.

133

838.16 3rd Commercial bribery.

134

843.18 3rd Fleeing by boat to elude a law enforcement officer.

135

847.011(1)(a) 3rd Sell, distribute, etc., obscene, lewd, etc., material (2nd conviction).

136

849.09(1)(a)-(d) 3rd Lottery; set up, promote, etc., or assist therein, conduct or advertise drawing for prizes, or dispose of property or money by means of lottery.

137

849.23 3rd Gambling-related machines;

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"common offender" as to
property rights.

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849.25(2) 3rd Engaging in bookmaking.

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860.08 3rd Interfere with a railroad
signal.

140

860.13(1)(a) 3rd Operate aircraft while under
the influence.

141

893.13(2)(a)2. 3rd Purchase of cannabis.

142

893.13(6)(a) 3rd Possession of cannabis (more
than 20 grams).

143

934.03(1)(a) 3rd Intercepts, or procures any
other person to intercept, any
wire or oral communication.

144

145 Section 4. This act shall take effect October 1, 2021.