



268992

LEGISLATIVE ACTION

Senate

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House

The Committee on Judiciary (Bradley) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. This act may be cited as the "Combating
Corporate Espionage in Florida Act."

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

812.081 Theft of or trafficking in trade secrets; ~~theft,~~
~~embezzlement; unlawful copying;~~ definitions; penalties;
providing to foreign entities; restitution penalty.-



268992

- 12 (1) As used in this section, the term:
- 13 (a) "Endeavor" means to attempt or to try.
- 14 (b) "Foreign agent" means any officer, employee, proxy,
15 servant, delegate, or representative of a foreign government.
- 16 (c) "Foreign instrumentality" means any agency, bureau,
17 ministry, component, institution, association, or any legal,
18 commercial, or business organization, corporation, firm, or
19 entity that is substantially owned, controlled, sponsored,
20 commanded, managed, or dominated by a foreign government.
- 21 (d) "Obtain or use" has the same meaning as provided in s.
22 812.012(3).
- 23 (e) "Person" means a natural person, corporation, business
24 trust, estate, trust, partnership, association, joint venture,
25 government, governmental subdivision or agency, or any other
26 legal or commercial entity.
- 27 ~~(a) "Article" means any object, device, machine, material,~~
28 ~~substance, or composition of matter, or any mixture or copy~~
29 ~~thereof, whether in whole or in part, including any complete or~~
30 ~~partial writing, record, recording, drawing, sample, specimen,~~
31 ~~prototype model, photograph, microorganism, blueprint, map, or~~
32 ~~copy thereof.~~
- 33 ~~(b) "Representing" means completely or partially~~
34 ~~describing, depicting, embodying, containing, constituting,~~
35 ~~reflecting, or recording.~~
- 36 (f) ~~(e)~~ "Trade secret" means the whole or any portion or
37 phase of any formula, pattern, device, combination of devices,
38 or compilation of information which is for use, or is used, in
39 the operation of a business and which provides the business an
40 advantage, or an opportunity to obtain an advantage, over those



268992

41 who do not know or use it. The term includes any scientific,
42 technical, or commercial information, including financial
43 information, and includes any design, process, procedure, list
44 of suppliers, list of customers, business code, or improvement
45 thereof, whether tangible or intangible, and regardless of
46 whether or how it is stored, compiled, or memorialized
47 physically, electronically, graphically, photographically, or in
48 writing. 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

58
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 (g) "Traffic" has the same meaning as provided in s.
63 812.012(8).

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

68 (2) It is unlawful for a Any person to willfully and
69 without authorization obtain or use, or to endeavor to obtain or



268992

70 use, a trade secret ~~who,~~ with the intent to either temporarily
71 or permanently:

72 (a) Deprive or withhold from the owner thereof the control
73 or benefit of a trade secret; ~~or with an intent to~~

74 (b) Appropriate a trade secret to his or her own use or to
75 the use of another person not entitled to the trade secret. ~~or~~
76 ~~steals or embezzles an article representing a trade secret or~~
77 ~~without authority makes or causes to be made a copy of an~~
78 ~~article representing a trade secret~~

79

80 A person who violates this subsection commits theft of a trade
81 secret, a felony of the third degree, punishable as provided in
82 s. 775.082, ~~or~~ s. 775.083, or s. 775.084.

83 (3) A person who traffics in, or endeavors to traffic in, a
84 trade secret that he or she knows or should know was obtained or
85 used without authorization commits trafficking in trade secrets,
86 a felony of the second degree, punishable as provided in s.
87 775.082, s. 775.083, or s. 775.084.

88 (4) Whenever a person is charged with a violation of this
89 section which was committed with the intent to benefit a foreign
90 government, a foreign agent, or a foreign instrumentality, the
91 offense for which the person is charged shall be reclassified as
92 follows:

93 (a) In the case of theft of a trade secret, from a felony
94 of the third degree to felony of the second degree.

95 (b) In the case of trafficking in trade secrets, from a
96 felony of the second degree to a felony of the first degree.

97

98 For purposes of sentencing under chapter 921 and determining



268992

99 incentive gain-time eligibility under chapter 944, a felony
100 offense that is reclassified under this subsection is ranked one
101 level above the ranking under s. 921.0022 of the offense
102 committed.

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

108 (6) In a prosecution for a violation of this section, the
109 fact that the person so charged returned or intended to return
110 the ~~unlawfully obtained or used trade secret article so stolen,~~
111 ~~embezzled, or copied~~ is not a defense.

112 (7) A person who owns a trade secret that is unlawfully
113 obtained or used may bring a civil action to enjoin the
114 continued improper use of such trade secret, and a court may
115 require affirmative actions to protect the trade secret. When
116 exceptional circumstances render an injunction inequitable, the
117 court may condition future use of the trade secret on the
118 payment of a reasonable royalty for no longer than the period of
119 time for which such use could have been prohibited.

120 (8) A person may not be held criminally or civilly liable
121 under this section for the disclosure of a trade secret when
122 such disclosure is:

123 (a) Made confidentially to an attorney, a law enforcement
124 officer, or any other federal, state, or local government
125 official for the purpose of reporting or investigating a
126 suspected violation of law; or

127 (b) Made in a complaint or other document filed under seal



128 in a lawsuit or other proceeding.

129 Section 3. Paragraphs (a), (c), and (e) of subsection (3)
130 of section 921.0022, Florida Statutes, are amended to read:

131 921.0022 Criminal Punishment Code; offense severity ranking
132 chart.—

133 (3) OFFENSE SEVERITY RANKING CHART

134 (a) LEVEL 1

135

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, amount \$1,000 or more but less than \$20,000.
316.1935(1)	3rd	Fleeing or attempting to elude law enforcement officer.
319.30(5)	3rd	Sell, exchange, give away certificate of title or identification number plate.

141



268992

142

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

143

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

144

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

145

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

146

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

147

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

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



268992

148	509.151(1)	3rd	Defraud an innkeeper, food or lodging value \$1,000 or more.
149	517.302(1)	3rd	Violation of the Florida Securities and Investor Protection Act.
150	713.69	3rd	Tenant removes property upon which lien has accrued, value \$1,000 or more.
151	812.014(3)(c)	3rd	Petit theft (3rd conviction); theft of any property not specified in subsection (2).
152	812.081(2)	3rd	Unlawfully makes or causes to be made a reproduction of a trade secret.
153	815.04(5)(a)	3rd	Offense against intellectual property (i.e., computer programs, data).
154	817.52(2)	3rd	Hiring with intent to defraud, motor vehicle services.
155	817.569(2)	3rd	Use of public record or public records information or



268992

providing false information to
facilitate commission of a
felony.

156

826.01 3rd Bigamy.

157

828.122(3) 3rd Fighting or baiting animals.

158

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

159

831.31(1)(a) 3rd Sell, deliver, or possess
counterfeit controlled
substances, all but s.
893.03(5) drugs.

160

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

161

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.

162

838.15(2) 3rd Commercial bribe receiving.

163



268992

164	838.16	3rd	Commercial bribery.
165	843.18	3rd	Fleeing by boat to elude a law enforcement officer.
166	847.011(1)(a)	3rd	Sell, distribute, etc., obscene, lewd, etc., material (2nd conviction).
167	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.
168	849.23	3rd	Gambling-related machines; "common offender" as to property rights.
169	849.25(2)	3rd	Engaging in bookmaking.
170	860.08	3rd	Interfere with a railroad signal.
171	860.13(1)(a)	3rd	Operate aircraft while under the influence.
172	893.13(2)(a)2.	3rd	Purchase of cannabis.



268992

173

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

174

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

175

176 (c) LEVEL 3

177

Florida Statute	Felony Degree	Description
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178

119.10(2) (b)	3rd	Unlawful use of confidential information from police reports.
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179

316.066 (3) (b) - (d)	3rd	Unlawfully obtaining or using confidential crash reports.
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180

316.193(2) (b)	3rd	Felony DUI, 3rd conviction.
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181

316.1935(2)	3rd	Fleeing or attempting to elude law enforcement officer in patrol vehicle with siren and lights activated.
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182

319.30(4)	3rd	Possession by junkyard of motor vehicle with identification
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268992

number plate removed.

183

319.33(1)(a) 3rd Alter or forge any certificate
of title to a motor vehicle or
mobile home.

184

319.33(1)(c) 3rd Procure or pass title on stolen
vehicle.

185

319.33(4) 3rd With intent to defraud,
possess, sell, etc., a blank,
forged, or unlawfully obtained
title or registration.

186

327.35(2)(b) 3rd Felony BUI.

187

328.05(2) 3rd Possess, sell, or counterfeit
fictitious, stolen, or
fraudulent titles or bills of
sale of vessels.

188

328.07(4) 3rd Manufacture, exchange, or
possess vessel with counterfeit
or wrong ID number.

189

376.302(5) 3rd Fraud related to reimbursement
for cleanup expenses under the
Inland Protection Trust Fund.

190



379.2431 3rd Taking, disturbing, mutilating,
 (1) (e) 5. destroyed, causing to be
 destroyed, transferring,
 selling, offering to sell,
 molesting, or harassing marine
 turtles, marine turtle eggs, or
 marine turtle nests in
 violation of the Marine Turtle
 Protection Act.

191

379.2431 3rd Possessing any marine turtle
 (1) (e) 6. species or hatchling, or parts
 thereof, or the nest of any
 marine turtle species described
 in the Marine Turtle Protection
 Act.

192

379.2431 3rd Soliciting to commit or
 (1) (e) 7. conspiring to commit a
 violation of the Marine Turtle
 Protection Act.

193

400.9935 (4) (a) 3rd Operating a clinic, or offering
 or (b) services requiring licensure,
 without a license.

194

400.9935 (4) (e) 3rd Filing a false license
 application or other required
 information or failing to



report information.

195

440.1051(3) 3rd False report of workers'
compensation fraud or
retaliation for making such a
report.

196

501.001(2)(b) 2nd Tamper with a consumer product
or the container using
materially false/misleading
information.

197

624.401(4)(a) 3rd Transacting insurance without a
certificate of authority.

198

624.401(4)(b)1. 3rd Transacting insurance without a
certificate of authority;
premium collected less than
\$20,000.

199

626.902(1)(a) & 3rd Representing an unauthorized
(b) insurer.

200

697.08 3rd Equity skimming.

201

790.15(3) 3rd Person directs another to
discharge firearm from a
vehicle.

202



203	806.10(1)	3rd	Maliciously injure, destroy, or interfere with vehicles or equipment used in firefighting.
204	806.10(2)	3rd	Interferes with or assaults firefighter in performance of duty.
205	810.09(2)(c)	3rd	Trespass on property other than structure or conveyance armed with firearm or dangerous weapon.
206	812.014(2)(c)2.	3rd	Grand theft; \$5,000 or more but less than \$10,000.
207	812.0145(2)(c)	3rd	Theft from person 65 years of age or older; \$300 or more but less than \$10,000.
208	812.015(8)(b)	3rd	Retail theft with intent to sell; conspires with others.
209	<u>812.081(2)</u>	<u>3rd</u>	<u>Theft of a trade secret.</u>
210	815.04(5)(b)	2nd	Computer offense devised to defraud or obtain property.
	817.034(4)(a)3.	3rd	Engages in scheme to defraud



268992

(Florida Communications Fraud Act), property valued at less than \$20,000.

211

817.233 3rd Burning to defraud insurer.

212

817.234 3rd Unlawful solicitation of
(8) (b) & (c) persons involved in motor vehicle accidents.

213

817.234 (11) (a) 3rd Insurance fraud; property value less than \$20,000.

214

817.236 3rd Filing a false motor vehicle insurance application.

215

817.2361 3rd Creating, marketing, or presenting a false or fraudulent motor vehicle insurance card.

216

817.413 (2) 3rd Sale of used goods of \$1,000 or more as new.

217

831.28 (2) (a) 3rd Counterfeiting a payment instrument with intent to defraud or possessing a counterfeit payment instrument with intent to defraud.



218	831.29	2nd	Possession of instruments for counterfeiting driver licenses or identification cards.
219	838.021 (3) (b)	3rd	Threatens unlawful harm to public servant.
220	843.19	2nd	Injure, disable, or kill police, fire, or SAR canine or police horse.
221	860.15 (3)	3rd	Overcharging for repairs and parts.
222	870.01 (2)	3rd	Riot; inciting or encouraging.
223	893.13 (1) (a) 2.	3rd	Sell, manufacture, or deliver cannabis (or other s. 893.03 (1) (c), (2) (c) 1., (2) (c) 2., (2) (c) 3., (2) (c) 6., (2) (c) 7., (2) (c) 8., (2) (c) 9., (2) (c) 10., (3), or (4) drugs).
224	893.13 (1) (d) 2.	2nd	Sell, manufacture, or deliver s. 893.03 (1) (c), (2) (c) 1., (2) (c) 2., (2) (c) 3., (2) (c) 6., (2) (c) 7., (2) (c) 8., (2) (c) 9., (2) (c) 10., (3), or (4) drugs



within 1,000 feet of
university.

225

893.13(1)(f)2. 2nd Sell, manufacture, or deliver
s. 893.03(1)(c), (2)(c)1.,
(2)(c)2., (2)(c)3., (2)(c)6.,
(2)(c)7., (2)(c)8., (2)(c)9.,
(2)(c)10., (3), or (4) drugs
within 1,000 feet of public
housing facility.

226

893.13(4)(c) 3rd Use or hire of minor; deliver
to minor other controlled
substances.

227

893.13(6)(a) 3rd Possession of any controlled
substance other than felony
possession of cannabis.

228

893.13(7)(a)8. 3rd Withhold information from
practitioner regarding previous
receipt of or prescription for
a controlled substance.

229

893.13(7)(a)9. 3rd Obtain or attempt to obtain
controlled substance by fraud,
forgery, misrepresentation,
etc.

230



268992

231

893.13(7)(a)10. 3rd Affix false or forged label to
package of controlled
substance.

232

893.13(7)(a)11. 3rd Furnish false or fraudulent
material information on any
document or record required by
chapter 893.

233

893.13(8)(a)1. 3rd Knowingly assist a patient,
other person, or owner of an
animal in obtaining a
controlled substance through
deceptive, untrue, or
fraudulent representations in
or related to the
practitioner's practice.

234

893.13(8)(a)2. 3rd Employ a trick or scheme in the
practitioner's practice to
assist a patient, other person,
or owner of an animal in
obtaining a controlled
substance.

235

893.13(8)(a)3. 3rd Knowingly write a prescription
for a controlled substance for
a fictitious person.



268992

236	893.13(8)(a)4.	3rd	Write a prescription for a controlled substance for a patient, other person, or an animal if the sole purpose of writing the prescription is a monetary benefit for the practitioner.
237	918.13(1)(a)	3rd	Alter, destroy, or conceal investigation evidence.
238	944.47 (1)(a)1. & 2.	3rd	Introduce contraband to correctional facility.
239	944.47(1)(c)	2nd	Possess contraband while upon the grounds of a correctional institution.
240	985.721	3rd	Escapes from a juvenile facility (secure detention or residential commitment facility).
241			
242	(e) LEVEL 5		
243			
244	Florida Statute	Felony Degree	Description



245	316.027(2)(a)	3rd	Accidents involving personal injuries other than serious bodily injury, failure to stop; leaving scene.
246	316.1935(4)(a)	2nd	Aggravated fleeing or eluding.
247	316.80(2)	2nd	Unlawful conveyance of fuel; obtaining fuel fraudulently.
248	322.34(6)	3rd	Careless operation of motor vehicle with suspended license, resulting in death or serious bodily injury.
249	327.30(5)	3rd	Vessel accidents involving personal injury; leaving scene.
	379.365(2)(c)1.	3rd	Violation of rules relating to: willful molestation of stone crab traps, lines, or buoys; illegal bartering, trading, or sale, conspiring or aiding in such barter, trade, or sale, or supplying, agreeing to supply, aiding in supplying, or giving away stone crab trap tags or certificates; making, altering, forging, counterfeiting, or



reproducing stone crab trap tags; possession of forged, counterfeit, or imitation stone crab trap tags; and engaging in the commercial harvest of stone crabs while license is suspended or revoked.

250

379.367(4) 3rd Willful molestation of a commercial harvester's spiny lobster trap, line, or buoy.

251

379.407(5)(b)3. 3rd Possession of 100 or more undersized spiny lobsters.

252

381.0041(11)(b) 3rd Donate blood, plasma, or organs knowing HIV positive.

253

440.10(1)(g) 2nd Failure to obtain workers' compensation coverage.

254

440.105(5) 2nd Unlawful solicitation for the purpose of making workers' compensation claims.

255

440.381(2) 3rd Submission of false, misleading, or incomplete information with the purpose of avoiding or reducing workers'



compensation premiums.

256

624.401(4)(b)2. 2nd Transacting insurance without a
certificate or authority;
premium collected \$20,000 or
more but less than \$100,000.

257

626.902(1)(c) 2nd Representing an unauthorized
insurer; repeat offender.

258

790.01(2) 3rd Carrying a concealed firearm.

259

790.162 2nd Threat to throw or discharge
destructive device.

260

790.163(1) 2nd False report of bomb,
explosive, weapon of mass
destruction, or use of firearms
in violent manner.

261

790.221(1) 2nd Possession of short-barreled
shotgun or machine gun.

262

790.23 2nd Felons in possession of
firearms, ammunition, or
electronic weapons or devices.

263

796.05(1) 2nd Live on earnings of a
prostitute; 1st offense.



264	800.04 (6) (c)	3rd	Lewd or lascivious conduct; offender less than 18 years of age.
265	800.04 (7) (b)	2nd	Lewd or lascivious exhibition; offender 18 years of age or older.
266	806.111 (1)	3rd	Possess, manufacture, or dispense fire bomb with intent to damage any structure or property.
267	812.0145 (2) (b)	2nd	Theft from person 65 years of age or older; \$10,000 or more but less than \$50,000.
268	812.015 (8) (a) & (c) - (e)	3rd	Retail theft; property stolen is valued at \$750 or more and one or more specified acts.
269	812.019 (1)	2nd	Stolen property; dealing in or trafficking in.
270	<u>812.081 (3)</u>	<u>2nd</u>	<u>Trafficking in trade secrets.</u>
271	812.131 (2) (b)	3rd	Robbery by sudden snatching.
272			



273	812.16(2)	3rd	Owning, operating, or conducting a chop shop.
274	817.034(4)(a)2.	2nd	Communications fraud, value \$20,000 to \$50,000.
275	817.234(11)(b)	2nd	Insurance fraud; property value \$20,000 or more but less than \$100,000.
276	817.2341(1), (2)(a) & (3)(a)	3rd	Filing false financial statements, making false entries of material fact or false statements regarding property values relating to the solvency of an insuring entity.
277	817.568(2)(b)	2nd	Fraudulent use of personal identification information; value of benefit, services received, payment avoided, or amount of injury or fraud, \$5,000 or more or use of personal identification information of 10 or more persons.
	817.611(2)(a)	2nd	Traffic in or possess 5 to 14 counterfeit credit cards or



268992

related documents.

278

817.625(2)(b) 2nd Second or subsequent fraudulent
use of scanning device,
skimming device, or reencoder.

279

825.1025(4) 3rd Lewd or lascivious exhibition
in the presence of an elderly
person or disabled adult.

280

827.071(4) 2nd Possess with intent to promote
any photographic material,
motion picture, etc., which
includes sexual conduct by a
child.

281

827.071(5) 3rd Possess, control, or
intentionally view any
photographic material, motion
picture, etc., which includes
sexual conduct by a child.

282

828.12(2) 3rd Tortures any animal with intent
to inflict intense pain,
serious physical injury, or
death.

283

839.13(2)(b) 2nd Falsifying records of an
individual in the care and



268992

custody of a state agency
 involving great bodily harm or
 death.

284

843.01 3rd Resist officer with violence to
 person; resist arrest with
 violence.

285

847.0135(5)(b) 2nd Lewd or lascivious exhibition
 using computer; offender 18
 years or older.

286

847.0137 3rd Transmission of pornography by
 (2) & (3) electronic device or equipment.

287

847.0138 3rd Transmission of material
 (2) & (3) harmful to minors to a minor by
 electronic device or equipment.

288

874.05(1)(b) 2nd Encouraging or recruiting
 another to join a criminal
 gang; second or subsequent
 offense.

289

874.05(2)(a) 2nd Encouraging or recruiting
 person under 13 years of age to
 join a criminal gang.

290

893.13(1)(a)1. 2nd Sell, manufacture, or deliver



cocaine (or other s.
893.03(1)(a), (1)(b), (1)(d),
(2)(a), (2)(b), or (2)(c)5.
drugs).

291

893.13(1)(c)2. 2nd Sell, manufacture, or deliver
cannabis (or other s.
893.03(1)(c), (2)(c)1.,
(2)(c)2., (2)(c)3., (2)(c)6.,
(2)(c)7., (2)(c)8., (2)(c)9.,
(2)(c)10., (3), or (4) drugs)
within 1,000 feet of a child
care facility, school, or
state, county, or municipal
park or publicly owned
recreational facility or
community center.

292

893.13(1)(d)1. 1st Sell, manufacture, or deliver
cocaine (or other s.
893.03(1)(a), (1)(b), (1)(d),
(2)(a), (2)(b), or (2)(c)5.
drugs) within 1,000 feet of
university.

293

893.13(1)(e)2. 2nd Sell, manufacture, or deliver
cannabis or other drug
prohibited under s.
893.03(1)(c), (2)(c)1.,



268992

305 A bill to be entitled
306 An act relating to corporate espionage; providing a
307 short title; amending s. 812.081, F.S.; revising
308 definitions; prohibiting theft of a trade secret;
309 prohibiting trafficking in trade secrets; providing
310 criminal penalties; reclassifying the criminal penalty
311 and increasing the offense severity ranking for an
312 offense committed with specified intent; requiring a
313 court to order specified restitution for a violation;
314 providing for civil actions for violations; providing
315 an exception to criminal and civil liability for
316 certain disclosures; amending s. 921.0022, F.S.;
317 conforming provisions to changes made by the act;
318 ranking the severity of offenses; providing an
319 effective date.