

119TH CONGRESS
1ST SESSION

S. _____

To amend the Federal Election Campaign Act of 1971 to further restrict contributions of foreign nationals, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. HAGERTY (for himself, Mrs. BLACKBURN, Mr. BUDD, Mr. CRUZ, Mr. KENNEDY, Mr. LEE, Ms. LUMMIS, and Mr. MARSHALL) introduced the following bill; which was read twice and referred to the Committee on

A BILL

To amend the Federal Election Campaign Act of 1971 to further restrict contributions of foreign nationals, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Preventing Foreign
5 Interference in American Elections Act”.

6 **SEC. 2. MODIFICATIONS TO FOREIGN MONEY BAN.**

7 (a) **ADDITIONAL RESTRICTIONS.**—

1 (1) IN GENERAL.—Section 319(a)(1) of the
2 Federal Election Campaign Act of 1971 (52 U.S.C.
3 30121(a)(1)) is amended—

4 (A) by striking “or” at the end of subpara-
5 graph (B); and

6 (B) by adding at the end the following new
7 subparagraph:

8 “(D) a donation for the purpose of—

9 “(i) voter registration activity;

10 “(ii) ballot collection;

11 “(iii) voter identification;

12 “(iv) get-out-the-vote activity;

13 “(v) any public communication that
14 refers to a clearly identified Federal, State,
15 or local political party; or

16 “(vi) the administration of a Federal,
17 State, or local election; or”.

18 (2) CONFORMING AMENDMENT.—Section
19 319(a)(2) of such Act (52 U.S.C. 30121(a)(2)) is
20 amended by striking “subparagraph (A) or (B) of
21 paragraph (1)” and inserting “subparagraph (A),
22 (B), or (D) of paragraph (1)”.

23 (b) APPLICATION TO STATE AND LOCAL BALLOT INI-
24 TIATIVES, REFERENDA, AND RECALL ELECTIONS.—Sec-

tion 319(b) of the Federal Election Campaign Act of 1971
(52 U.S.C. 30121(b)) is amended—

(1) by redesignating paragraphs (1) and (2) as
subparagraphs (A) and (B), respectively, and by
moving such subparagraphs 2 ems to the right;

(2) by striking “as used in this section, the
term” and inserting the following:

“(b) DEFINITIONS.—For purposes of this section—

“(1) FOREIGN NATIONAL.—The term”; and

(3) by adding at the end the following new
paragraph:

“(2) FEDERAL, STATE, OR LOCAL ELECTION.—

“(A) IN GENERAL.—The term ‘Federal,
State, or local election’ includes a State or local
ballot initiative, referendum, or recall election.

“(B) RULE OF CONSTRUCTION REGARDING
STATE OR LOCAL ELECTIONS AND BALLOT INI-
TIATIVES AND REFERENDA.—Nothing in this
section may be construed to treat a State or
local election or a State or local ballot initiative
or referendum as an election for any other pur-
pose under this Act.”.

(c) PROHIBITION ON AIDING OR FACILITATING VIO-
LATIONS.—Section 319(a) of the Federal Election Cam-

1 paign Act of 1971 (52 U.S.C. 30121(a)), as amended by
2 subsection (a), is amended—

3 (1) by striking “or” at the end of paragraph
4 (1)(D);

5 (2) by striking the period at the end of para-
6 graph (2) and inserting “; or”; and

7 (3) by adding at the end the following new
8 paragraph:

9 “(3) a person to knowingly aid or facilitate a
10 violation of paragraph (1) or (2).”.

11 (d) INDIRECT CONTRIBUTIONS.—Section 319 of the
12 Federal Election Campaign Act of 1971 (52 U.S.C.
13 30121) is amended by adding at the end the following new
14 subsection:

15 “(c) INDIRECT CONTRIBUTIONS.—For purposes of
16 this section, a person shall be treated as having indirectly
17 made a contribution, donation, expenditure, or disburse-
18 ment described in subparagraph (A), (B), (C), or (D) of
19 subsection (a)(1) if such person has made a contribution
20 or donation to a person with a designation, instruction,
21 or encumbrance (whether direct or indirect, express or im-
22 plied, oral or written, or involving intermediaries or con-
23 duits) which results in any part of such contribution, do-
24 nation, expenditure, or disbursement being used for an ac-

1 tivity described in subparagraph (A), (B), (C), or (D) of
2 subsection (a)(1).”.

3 (e) ENFORCEMENT PROVISIONS.—Section 319 of the
4 Federal Election Campaign Act of 1971 (52 U.S.C.
5 30121), as amended by subsection (d), is amended by add-
6 ing at the end the following new subsection:

7 “(d) ENFORCEMENT.—

8 “(1) USE OF CERTIFICATION AS A DEFENSE.—

9 “(A) IN GENERAL.—In the case of any al-
10 legation that a person has violated subsection
11 (a), any person alleged in the complaint may, in
12 connection with a response to such allegation
13 under section 309(a)(1), submit, under penalty
14 of perjury, a certification that no such violation
15 has occurred.

16 “(B) EFFECT OF SUBMISSION.—The Com-
17 mission shall take into consideration any certifi-
18 cation submitted under subparagraph (A) in
19 making a determination under section
20 309(a)(2) whether there is reason to believe
21 such violation has occurred.

22 “(2) LIMITATION ON INVESTIGATIONS.—

23 “(A) IN GENERAL.—If the Commission
24 makes a determination under section 309(a)(2)
25 that there is reason to believe a violation of

1 subsection (a) has occurred or is about to
2 occur, any investigation of such alleged viola-
3 tion shall be limited in scope to the factual mat-
4 ter necessary to determine whether such alleged
5 violation occurred.

6 “(B) PETITION TO QUASH SUBPOENA OR
7 ORDER ON BASIS NOT LIMITED IN SCOPE TO
8 NECESSARY FACTUAL MATTER.—

9 “(i) IN GENERAL.—A person subject
10 to an investigation by the Commission fol-
11 lowing a determination of the Commission
12 that there is reason to believe a violation
13 of subsection (a) has occurred or is about
14 to occur may file a petition in any United
15 States district court with jurisdiction to
16 quash any subpoena or order of the Com-
17 mission issued under paragraph (3) or (4),
18 respectively, of section 307(a) on the basis
19 that the subpoena or order is not limited
20 in scope to the factual matter necessary to
21 determine whether such alleged violation
22 occurred as required under subparagraph
23 (A).

24 “(ii) CLARIFICATION.—Nothing in
25 clause (i) shall be construed to alter the

1 right of any person to otherwise challenge
2 the power of the Commission to issue a
3 subpoena under section 307(a)(3) or an
4 order under section 307(a)(4).”.

5 (f) REPORTING.—

6 (1) CONTRIBUTIONS AND EXPENDITURES OF
7 POLITICAL COMMITTEES AND POLITICAL PARTIES.—
8 Section 304(b) of the Federal Election Campaign
9 Act of 1971 (52 U.S.C. 30104(b)) is amended by
10 striking “and” at the end of paragraph (7), by strik-
11 ing the period at the end of paragraph (8) and in-
12 serting “; and”, and by adding at the end the fol-
13 lowing new paragraph:

14 “(9) under penalty of perjury, a certification
15 that the committee has complied with the require-
16 ments of section 319(a).”.

17 (2) INDEPENDENT EXPENDITURES.—

18 (A) COMMITTEE REPORTS.—Section
19 304(b)(6)(B)(iii) of the Federal Election Cam-
20 paign Act of 1971 (52 U.S.C.
21 30104(b)(6)(B)(iii)) is amended—

22 (i) by striking “and a certification”
23 and inserting “a certification”; and

24 (ii) by inserting “, and a certification,
25 under penalty of perjury that the inde-

1 pendent expenditure does not violate sec-
2 tion 319(a)” before the semicolon at the
3 end.

4 (B) OTHER PERSONS.—Section 304(c)(2)
5 of the Federal Election Campaign Act of 1971
6 (52 U.S.C. 30104(c)(2)) is amended by striking
7 “and” at the end of subparagraph (B), by re-
8 designating subparagraph (C) as subparagraph
9 (D), and by inserting after subparagraph (B)
10 the following new subparagraph:

11 “(C) under penalty of perjury, a certifi-
12 cation that the independent expenditure does
13 not violate section 319(a); and”.

14 (3) ELECTIONEERING COMMUNICATIONS.—Sec-
15 tion 304(f)(2) of such Act (52 U.S.C. 30104(f)(2))
16 is amended by adding at the end the following new
17 subparagraph:

18 “(G) A certification, under penalty of per-
19 jury, that the disbursement does not violate sec-
20 tion 319(a).”.

21 **SEC. 3. PROTECTING PRIVACY OF DONORS TO TAX-EXEMPT**
22 **ORGANIZATIONS.**

23 (a) RESTRICTIONS ON COLLECTION OF DONOR IN-
24 FORMATION.—

1 (1) RESTRICTIONS.—An entity of the Federal
2 Government may not collect or require the submis-
3 sion of information on the identification of any
4 donor to a tax-exempt organization.

5 (2) EXCEPTIONS.—Paragraph (1) does not
6 apply to the following:

7 (A) The Internal Revenue Service, acting
8 lawfully pursuant to section 6033 of the Inter-
9 nal Revenue Code of 1986 or any successor pro-
10 vision.

11 (B) The Secretary of the Senate and the
12 Clerk of the House of Representatives, acting
13 lawfully pursuant to section 3 of the Lobbying
14 Disclosure Act of 1995 (2 U.S.C. 1604).

15 (C) The Federal Election Commission, act-
16 ing lawfully pursuant to—

17 (i) section 510 of title 36, United
18 States Code; or

19 (ii) any provision of title III of the
20 Federal Election Campaign Act of 1971
21 (52 U.S.C. 30101 et seq.).

22 (D) An entity acting pursuant to a lawful
23 order of a court or administrative body which
24 has the authority under law to direct the entity
25 to collect or require the submission of the infor-

1 mation, but only to the extent permitted by the
2 lawful order of such court or administrative
3 body.

4 (b) RESTRICTIONS ON RELEASE OF DONOR INFOR-
5 MATION.—

6 (1) RESTRICTIONS.—An entity of the Federal
7 Government may not disclose to the public informa-
8 tion revealing the identification of any donor to a
9 tax-exempt organization.

10 (2) EXCEPTIONS.—Paragraph (1) does not
11 apply to the following:

12 (A) The Internal Revenue Service, acting
13 lawfully pursuant to section 6104 of the Inter-
14 nal Revenue Code of 1986 or any successor pro-
15 vision.

16 (B) The Secretary of the Senate and the
17 Clerk of the House of Representatives, acting
18 lawfully pursuant to section 3 of the Lobbying
19 Disclosure Act of 1995 (2 U.S.C. 1604).

20 (C) The Federal Election Commission, act-
21 ing lawfully pursuant to—

22 (i) section 510 of title 36, United
23 States Code; or

1 (ii) any provision of title III of the
2 Federal Election Campaign Act of 1971
3 (52 U.S.C. 30101 et seq.).

4 (D) An entity acting pursuant to a lawful
5 order of a court or administrative body which
6 has the authority under law to direct the entity
7 to disclose the information, but only to the ex-
8 tent permitted by the lawful order of such court
9 or administrative body.

10 (E) An entity which discloses the informa-
11 tion as authorized by the organization.

12 (c) TAX-EXEMPT ORGANIZATION DEFINED.—In this
13 section, a “tax-exempt organization” means an organiza-
14 tion which is described in section 501(c) of the Internal
15 Revenue Code of 1986 and is exempt from taxation under
16 section 501(a) of such Code. Nothing in this subsection
17 may be construed to treat a political organization under
18 section 527 of such Code as a tax-exempt organization for
19 purposes of this section.

20 (d) PENALTIES.—It shall be unlawful for any officer
21 or employee of the United States, or any former officer
22 or employee, willfully to disclose to any person, except as
23 authorized in this section, any information revealing the
24 identification of any donor to a tax-exempt organization.
25 Any violation of this section shall be a felony punishable

1 upon conviction by a fine in any amount not exceeding
2 \$250,000, or imprisonment of not more than 5 years, or
3 both, together with the costs of prosecution, and if such
4 offense is committed by any officer or employee of the
5 United States, he shall, in addition to any other punish-
6 ment, be dismissed from office or discharged from employ-
7 ment upon conviction for such offense.