

HR 682 IH

111th CONGRESS

1st Session

H. R. 682

To prohibit securities and commodities trading based on nonpublic information relating to Congress, and to require additional reporting by Members and employees of Congress of securities transaction, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES**January 26, 2009**

Mr. BAIRD (for himself, Ms. SLAUGHTER, and Mr. WALZ) introduced the following bill; which was referred to the Committee on Financial Services, and in addition to the Committees on House Administration, the Judiciary, Agriculture, and Standards of Official Conduct, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To prohibit securities and commodities trading based on nonpublic information relating to Congress, and to require additional reporting by Members and employees of Congress of securities transaction, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the `Stop Trading on Congressional Knowledge Act'.

SEC. 2. NONPUBLIC INFORMATION RELATING TO CONGRESS.

(a) Securities Transactions- Section 10 of the Securities Exchange Act of 1934 is amended by adding at the end the following:

`(c) Nonpublic Information Relating to Congress- Not later than 270 days after the date of enactment of this subsection, the Commission shall by rule prohibit any person from buying or selling the securities of any issuer while such person is in possession of material nonpublic information, as defined by the Commission, relating to any pending or prospective legislative action relating to such issuer if--

`(1) such information was obtained by reason of such person being a Member or employee of Congress; or

`(2) such information was obtained from a Member or employee of Congress, and such person knows that the information was so obtained.

`(d) Nonpublic Information Relating to Other Federal Employees-

`(1) RULEMAKING- Not later than 270 days after the date of enactment of this subsection, the Commission shall by rule prohibit any person from buying or selling the securities of any issuer while such person is in possession of material nonpublic information derived from Federal employment and relating to such issuer if--

`(A) such information was obtained by reason of such person being an employee of an agency, as such term is defined in section 551(1) of title 5, United States Code; or

`(B) such information was obtained from such an employee, and such person knows that the information was so obtained.

`(2) MATERIAL NONPUBLIC INFORMATION- For purposes of this subsection, the term `material nonpublic information' means any information that an employee of an agency (as such term is defined in section 551(1) of title 5, United States Code) gains by reason of Federal employment and that such employee knows or should know has not been made available to the general public, including information that--

`(A) is routinely exempt from disclosure under section 552 of title 5, United States Code, or otherwise protected from disclosure by statute, Executive order, or regulation;

`(B) is designated as confidential by an agency; or

`(C) has not actually been disseminated to the general public and is not authorized to be made available to the public on request.'

(b) Commodities Transactions- Section 4c of the Commodities Exchange Act (7 U.S.C. 6c) is amended by adding at the end the following:

`(h) Nonpublic Information Relating to Congress- Not later than 270 days after the date of enactment of this subsection, the Commission shall by rule prohibit any person from buying or selling any commodity for future delivery while such person is in possession of material nonpublic information, as defined by the Commission, relating to any pending or prospective legislative action relating to such commodity if--

`(1) such information was obtained by reason of such person being a Member or employee of Congress; or

`(2) such information was obtained from a Member or employee of Congress, and such person knows that the information was so obtained.

`(i) Nonpublic Information Relating to Other Federal Employees-

`(1) RULEMAKING- Not later than 270 days after the date of enactment of this subsection, the Commission shall by rule prohibit any person from buying or selling any commodity for future delivery while such person is in possession of material nonpublic information derived from Federal employment and relating to such commodity if--

`(A) such information was obtained by reason of such person being an employee of an agency, as such term is defined in section 551(1) of title 5, United States Code; or

`(B) such information was obtained from such an employee, and such person knows that the information was so obtained.

`(2) MATERIAL NONPUBLIC INFORMATION- For purposes of this subsection, the term `material nonpublic information' means any information that an employee of an agency (as such term is defined in section 551(1) of title 5, United States Code) gains by reason of Federal employment and that such employee knows or should know has not been made available to the general public, including information that--

`(A) is routinely exempt from disclosure under section 552 of title 5, United States Code, or otherwise protected from disclosure by statute, Executive order, or regulation;

`(B) is designated as confidential by an agency; or

`(C) has not actually been disseminated to the general public and is not authorized to be made available to the public on request.'

SEC. 3. AMENDMENT TO THE RULES OF THE HOUSE OF REPRESENTATIVES REGARDING SECURITIES TRADING BASED ON NONPUBLIC INFORMATION.

Rule XXIII (known as the `Code of Official Conduct') of the Rules of the House of Representatives is amended by redesignating clause 18 as clause 19 and by inserting after clause 17 the following new clause:

`18. A Member, Delegate, Resident Commissioner, officer, or employee of the House shall not--

`(a) disclose material nonpublic information relating to any pending or prospective legislative action relating to any publicly-traded company if that Member, Delegate, Resident Commissioner, officer, or employee has reason to believe that the information will be used to buy or sell the securities of such publicly-traded company based on such information; or

`(b) disclose material nonpublic information relating to any pending or prospective legislative action relating to any commodity if that Member, Delegate, Resident Commissioner, officer, or employee has reason to believe that the information will be used to buy or sell such commodity for future delivery based on such information.'

SEC. 4. TIMELY REPORTING OF SECURITIES TRANSACTIONS.

(a) Amendment- Section 103 of the Ethics in Government Act of 1978 is amended by adding at the end the following subsection:

`(I) Within 90 days after the purchase, sale, or exchange of any stocks, bonds, commodities futures, or other forms of securities that are otherwise required to be reported under this Act and the transaction of which involves at least \$1000 by any Member of Congress or officer or employee of the legislative branch required to so file, that Member, officer, or employee shall file a report of that transaction with the Clerk of the House of Representatives in the case of a Representative in Congress, a Delegate to Congress, or the Resident Commissioner from Puerto Rico, or with the Secretary of the Senate in the case of a Senator.'

(b) Effective Date- The amendment made by subsection (a) shall apply to transactions occurring on or after the date that is 90 days after the date of the enactment of this Act.

SEC. 5. DISCLOSURE OF POLITICAL INTELLIGENCE ACTIVITIES UNDER LOBBYING DISCLOSURE ACT.

(a) Definitions- Section 3 of the Lobbying Disclosure Act of 1995 (2 U.S.C. 1602) is amended--

(1) in paragraph (2)--

(A) by inserting after `lobbying activities' each place that term appears the following: `or political intelligence activities'; and

(B) by inserting after `lobbyists' the following: `or political intelligence consultants'; and

(2) by adding at the end the following new paragraphs:

`(17) POLITICAL INTELLIGENCE ACTIVITIES- The term `political intelligence activities' means political intelligence contacts and efforts in support of such contacts, including preparation and planning activities, research, and other background work that is intended, at the time it is performed, for use in contacts, and coordination with such contacts and efforts of others.

`(18) POLITICAL INTELLIGENCE CONTACT-

`(A) DEFINITION- The term `political intelligence contact' means any oral or written communication (including an electronic communication) to or from a covered executive branch official or a covered legislative branch official, the information derived from which is intended for use in analyzing securities or commodities markets, or in informing investment decisions, and which is made on behalf of a client with regard to--

`(i) the formulation, modification, or adoption of Federal legislation (including legislative proposals);

`(ii) the formulation, modification, or adoption of a Federal rule, regulation, Executive order, or any other program, policy, or position of the United States Government; or

`(iii) the administration or execution of a Federal program or policy (including the negotiation, award, or administration of a Federal contract, grant, loan, permit, or license).

`(B) EXCEPTION- The term `political intelligence contact' does not include a communication that is made by or to a representative of the media if the purpose of the communication is gathering and disseminating news and information to the public.

`(19) POLITICAL INTELLIGENCE FIRM- The term `political intelligence firm' means a person or entity that has 1 or more employees who are political intelligence consultants to a client other than that person or entity.

`(20) POLITICAL INTELLIGENCE CONSULTANT- The term `political intelligence consultant' means any individual who is employed or retained by a client for financial or other compensation for services that include one or more political intelligence contacts.'

(b) Registration Requirement- Section 4 of the Lobbying Disclosure Act of 1995 (2 U.S.C. 1603) is amended--

(1) in subsection (a)--

(A) in paragraph (1)--

(i) by inserting after `whichever is earlier,' the following: `or a political intelligence consultant first makes a political intelligence contact,'; and

(ii) by inserting after `such lobbyist' each place that term appears the following: `or consultant';

(B) in paragraph (2), by inserting after `lobbyists' each place that term appears the following: `or consultants'; and

(C) in paragraph (3)(A)--

(i) by inserting after `lobbying activities' each place that term appears the following: `and political intelligence activities'; and

(ii) in clause (i), by inserting after `lobbying firm' the following: `or political intelligence firm';

(2) in subsection (b)--

(A) in paragraph (3), by inserting after `lobbying activities' each place that term appears the following: `or political intelligence activities';

(B) in paragraph (4)--

(i) in the matter preceding subparagraph (A), by inserting after `lobbying activities' the following: `or political intelligence activities'; and

(ii) in subparagraph (C), by inserting after `lobbying activity' the following: `or political intelligence activity';

(C) in paragraph (5), by inserting after `lobbying activities' each place that term appears the following: `or political intelligence activities';

(D) in paragraph (6), by inserting after `lobbyist' each place that term appears the following: `or political intelligence consultant'; and

(E) in the matter following paragraph (6), by inserting `or political intelligence activities' after `such lobbying activities';

(3) in subsection (c)--

(A) in paragraph (1), by inserting after `lobbying contacts' the following: `or political intelligence contacts'; and

(B) in paragraph (2)--

(i) by inserting after `lobbying contact' the following: `or political intelligence contact'; and

(ii) by inserting after `lobbying contacts' the following: `and political intelligence contacts'; and

(4) in subsection (d), by inserting after `lobbying activities' each place that term appears the following: `or political intelligence activities'.

(c) Reports by Registered Political Intelligence Consultants- Section 5 of the Lobbying Disclosure Act of 1995 (2 U.S.C. 1604) is amended--

(1) in subsection (a), by inserting after `lobbying activities' the following: `and political intelligence activities';

(2) in subsection (b)--

(A) in paragraph (2)--

(i) in the matter preceding subparagraph (A), by inserting after `lobbying activities' the following: `or political intelligence activities';

(ii) in subparagraph (A)--

(I) by inserting after `lobbyist' the following: `or political intelligence consultant'; and

(II) by inserting after `lobbying activities' the following: `or political intelligence activities';

(iii) in subparagraph (B), by inserting after `lobbyists' the following: `or political intelligence consultants'; and

(iv) in subparagraph (C), by inserting after `lobbyists' the following: `or political intelligence consultants';

(B) in paragraph (3)--

(i) by inserting after `lobbying firm' the following: `or political intelligence firm'; and

(ii) by inserting after `lobbying activities' each place that term appears the following: `or political intelligence activities'; and

(C) in paragraph (4), by inserting after `lobbying activities' each place that term appears the following: `or political intelligence activities'; and

(3) in subsection (d)(1), in the matter preceding subparagraph (A), by inserting `or a political intelligence consultant' after `a lobbyist'.

(d) Disclosure and Enforcement- Section 6(a) of the Lobbying Disclosure Act of 1995 (2 U.S.C. 1605) is amended--

(1) in paragraph (3)(A), by inserting after `lobbying firms' the following: `, political intelligence consultants, political intelligence firms,';

(2) in paragraph (7), by striking `or lobbying firm' and inserting `lobbying firm, political intelligence consultant, or political intelligence firm'; and

(3) in paragraph (8), by striking `or lobbying firm' and inserting `lobbying firm, political intelligence consultant, or political intelligence firm'.

(e) Rules of Construction- Section 8(b) of the Lobbying Disclosure Act of 1995 (2 U.S.C. 1607(b)) is amended by striking `or lobbying contacts' and inserting `lobbying contacts, political intelligence activities, or political intelligence contacts'.

(f) Identification of Clients and Covered Officials- Section 14 of the Lobbying Disclosure Act of 1995 (2 U.S.C. 1609) is amended--

(1) in subsection (a)--

(A) in the heading, by inserting `or Political Intelligence' after `Lobbying';

(B) by inserting `or political intelligence contact' after `lobbying contact' each place that term appears; and

(C) in paragraph (2), by inserting `or political intelligence activity, as the case may be' after `lobbying activity';

(2) in subsection (b)--

(A) in the heading, by inserting `or Political Intelligence' after `Lobbying';

(B) by inserting `or political intelligence contact' after `lobbying contact' each place that term appears; and

(C) in paragraph (2), by inserting `or political intelligence activity, as the case may be' after `lobbying activity'; and

(3) in subsection (c), by inserting `or political intelligence contact' after `lobbying contact'.

(g) Annual Audits and Reports by Comptroller General- Section 26 of the Lobbying Disclosure Act of 1995 (2 U.S.C. 1614) is amended--

(1) in subsection (a), by inserting `political intelligence firms, political intelligence consultants,' after `lobbying firms';

(2) in subsection (b)(1)(A), by inserting `political intelligence firms, political intelligence consultants,' after `lobbying firms'; and

(3) in subsection (c), by inserting `or political intelligence consultant' after `a lobbyist'.

SEC. 6. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect at the end of the 90-day period beginning on the date of the enactment of this Act.

END