To amend title 18, United States Code, to prohibit interfering in elections with agents of a foreign government.

IN THE SENATE OF THE UNITED STATES

Mrs. Feinstein (for herself, Mr. Blumenthal, Mr. Leahy, Mr. Durbin, Mr. Whitehouse, Ms. Klobuchar, and Ms. Harris) introduced the following bill; which was read twice and referred to the Committee on

A BILL

To amend title 18, United States Code, to prohibit interfering in elections with agents of a foreign government.

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 “Prevention of Foreign

5 Interference with Elections Act of 2019”.

SEC. 2. INTERFERENCE IN ELECTIONS BY FOREIGN NATIONALS.

(a) In General.—Chapter 29 of title 18, United States Code, is amended by adding at the end the following:

“§ 612. Interference in elections by foreign nationals

“(a) Penalty.—

“(1) In General.—Whoever—

“(A) conspires with an individual, while having knowledge or reasonable cause to believe such individual is a foreign national, to prevent, obstruct, impede, interfere with, promote, support, or oppose the nomination or the election of any candidate for any Federal, State, or local office, or any ballot measure, initiative, or referendum; and

“(B) knows or has reasonable cause to believe that an interfering act would be or has been committed to effect the object of the conspiracy;

shall be fined under this title, imprisoned for not more than 5 years, or both.

“(2) Agents of foreign powers.—Whoever violates paragraph (1) by conspiring with an agent of a foreign power shall be fined under this title, imprisoned for not more than 10 years, or both.
“(b) Consecutive Sentence.—No term of imprisonment imposed on a person under this section shall run concurrently with any other term of imprisonment imposed on the person under any other provision of law.

“(c) Injunctions.—

“(1) In general.—Whenever it shall appear that any person is engaged or is about to engage in any act which constitutes a violation of this section, the Attorney General may bring a civil action in a district court of the United States seeking an order to enjoin such act.

“(2) Action by court.—The court shall proceed as soon as practicable to the hearing and determination of a civil action brought under this subsection, 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, a State, or a locality, or to any person or class of persons for whose protection the civil action is brought.

“(3) Procedure.—

“(A) In general.—A proceeding under this subsection shall be governed by the Federal Rules of Civil Procedure, except that, if an in-
dictment has been returned against the respondent, discovery shall be governed by the Federal Rules of Criminal Procedure.

“(B) SEALED PROCEEDINGS.—If a civil action is brought under this subsection, before an indictment is returned against the respondent or while an indictment against the respondent is under seal—

“(i) the court shall place the civil action under seal; and

“(ii) when the indictment is unsealed, the court shall unseal the civil action unless good cause exists to keep the civil action under seal.

“(4) CLASSIFIED INFORMATION IF INDICTMENT HAS NOT BEEN RETURNED AGAINST RESPONDENT.—For any civil proceeding brought by the Attorney General under this subsection in which an indictment has not been returned against the respondent, classified information in the civil proceeding shall be subject to the procedures described in section 2339B(f).

“(d) DEFINITIONS.—In this section—

“(1) the term ‘agent of a foreign power’—
“(A) has the meaning given to the term in section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801); and

“(B) does not include a United States person (as defined under section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801));

“(2) the term ‘classified information’ has the meaning given the term in section 1 of the Classified Information Procedures Act (18 U.S.C. App.);

“(3) the term ‘foreign national’—

“(A) means a foreign principal, as such term is defined by section 1(b) of the Foreign Agents Registration Act of 1938 (22 U.S.C. 611(b)); and

“(B) does not include any individual who is a citizen of the United States or a lawful permanent resident of the United States; and

“(4) the term ‘interfering act’ means any offense, that does have to be otherwise proven, under or violation of—

“(A) this title;

“(B) section 12 of the Voting Rights Act of 1965 (52 U.S.C. 10308);
“(C) the Federal Election Campaign Act of 1971 (52 U.S.C. 30101 et seq.); or
“(D) chapter 95 or 96 of the Internal Revenue Code of 1986.
“(e) RULE OF CONSTRUCTION.—Nothing in this section shall be construed or applied to abridge the exercise of rights guaranteed under the First Amendment to the Constitution of the United States.”.

(b) SEVERABILITY.—If any provision of this Act, an amendment made by this Act, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this Act, the amendments made by this Act, and the applications of the provisions of such to any other person or circumstance shall not be affected thereby.

(e) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 29 of title 18, United States Code, is amended by adding at the end the following:

“612. Interference in elections by agents of a foreign principal.”.

SEC. 3. INADMISSIBILITY FOR INTERFERENCE IN ELECTIONS BY FOREIGN NATIONALS.

Section 212(a)(10)(D) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(10)(D)) is amended to read as follows:
“(D) UNLAWFUL VOTERS AND ELECTION INTERFERENCE BY FOREIGN NATIONALS.—

“(i) UNLAWFUL VOTERS.—Except as provided in clause (iii), any alien who has voted in violation of any Federal, State, or local constitutional provision, statute, ordinance, or regulation is inadmissible.

“(ii) ELECTION INTERFERENCE BY FOREIGN NATIONALS.—

“(I) IN GENERAL.—Except as provided in subclause (II) and clause (iii), any alien convicted of violating section 612 of title 18, United States Code, is inadmissible.

“(II) EXCEPTION.—If an alien described in subclause (I) is eligible under section 245(j) for an adjustment of status to that of an alien lawfully admitted for permanent residence, the Secretary of Homeland Security, in the Secretary’s sole, unreviewable discretion, may waive the applicability of subclause (I) with respect to such alien.
“(iii) EXCEPTION.—An alien shall not be considered to be inadmissible under this subparagraph if—

“(I) the alien voted in a Federal, State, or local election (including an initiative, recall, or referendum) in violation of a lawful restriction of voting to citizens;

“(II) each natural parent of the alien (or, in the case of an adopted alien, each adoptive parent of the alien) is or was a United States citizen (whether by birth or naturalization);

“(III) the alien permanently resided in the United States before reaching 16 years of age; and

“(IV) the alien reasonably believed at the time of the violation described in clause (i) or (ii)(I) that he or she was a United States citizen.”.

SEC. 4. STRENGTHENING PROHIBITIONS ON EXPENDITURES BY FOREIGN NATIONALS.

Section 319 of the Federal Election Campaign Act of 1971 (52 U.S.C. 30121) is amended—
(1) in subsection (a)(1)(C), by inserting ‘‘, subject to subsection (e)” after ‘‘within the meaning of section 304(f)(3)”; and

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

“(e) APPLICATION TO ELECTIONEERING COMMUNICATIONS.—

“(1) ELECTIONEERING COMMUNICATIONS.—

“(A) IN GENERAL.—For purposes of applying subsection (a)(1)(C) and subsection (d), an ‘electioneering communication’—

“(i) does not include a news story, commentary, editorial, or other communication produced and distributed in the ordinary course of bona fide press activity by a news or press service or association, newspaper, magazine, periodical, or other publication as determined under subparagraph (B);

“(ii) except as provided in clause (i), includes an Internet or digital communication that otherwise meets the requirements of section 304(f)(3) as modified by this paragraph;
“(iii) includes a communication that does not refer to a clearly identified candidate for Federal office as described in subparagraph (A)(i)(I) of section 304(f)(3) if—

“(I) the communication otherwise meets the requirements of such section as modified by this paragraph except that items (aa) and (bb) of subparagraph (A)(i)(II) of such section shall each be applied by substituting ‘Federal, State, or local office’ for ‘the office sought by the candidate’;

“(II) the communication—

“(aa) references voting or a Federal, State, or local election;

“(bb) addresses an issue that is reasonably understood to distinguish one candidate for Federal, State, or local office from another;

“(cc) republishes or is substantially identical to the communications of a candidate for Fed-
eral, State, or local office on that
same issue;

“(dd) expresses approval or
disapproval of a position reason-
ably identified with a candidate
for Federal, State, or local office
and presented in substantially
similar terms, regardless of
whether there is a specific ref-
ERENCE TO THAT CANDIDATE; OR

“(ee) references an employee
of a candidate or campaign for
Federal, State, or local office or
a political party; and

“(iv) does not include a commercial
advertisement for goods or services by a
foreign corporation or business entity.

“(B) Determination of bona fide
press activity.—For purposes of subpara-
graph (A)(i), a news story, commentary, edi-
torial, or other communication is not produced
and distributed in the ordinary course of bona
fide press activity by a news or press service or
association, newspaper, magazine, periodical, or
other publication and the exception under such subparagraph shall not apply if—

“(i) such media outlet is owned, directed, supervised, controlled, subsidized, or financed by a government of a foreign country, as defined in section 1 of the Foreign Agents Registration Act of 1938 (22 U.S.C. 611); and

“(ii) such news story, commentary, editorial, or other communication—

“(I) is directed, produced, or distributed, at the direction of government or political party officials; and

“(II) promotes, attacks, supports, or opposes any candidate for public office or political party in the United States.

“(2) FOREIGN INDIVIDUAL INTERNET ACTIVITY EXCEPTION.—

“(A) IN GENERAL.—When an individual or a group of individuals engages in Internet activities for the purposes of influencing an election, neither of the following is a contribution or expenditure for purposes of this section by that individual or group of individuals:
“(i) The uncompensated personal services of the individual related to such internet activities. The exception under the preceding sentence shall not apply to individuals or a group of individuals acting on behalf of or in any capacity at the order, request, or under the direction or control, of a government of a foreign country, a foreign political party, or a person whose activities are directly or indirectly supervised, directed, controlled, financed, or subsidized in whole or in major part by a government of a foreign country or a foreign political party.

“(ii) The use of equipment or services by the individual for uncompensated Internet activities, regardless of the identity of the owner of the equipment or services. The exception under the preceding sentence shall not apply to equipment or services supplied or provided directly or indirectly by a government of a foreign country, a foreign political party, or a person whose activities are directly or indirectly supervised, directed, controlled, financed,
or subsidized in whole or in major part by
a government of a foreign country or a for-

eign political party.

“(B) DEFINITION.—For purposes of this
paragraph, the terms ‘Internet activities’ and
‘equipment and services’ have the meaning
given such terms in section 100.94 of title 11,
Code of Federal Regulations (or any successor
regulation).

“(d) PROHIBITION ON PROVIDING SUBSTANTIAL AS-
SISTANCE TO A FOREIGN GOVERNMENTS AND FOREIGN
POLITICAL PARTIES IN MAKING CONTRIBUTIONS, DONA-
TIONS, OR EXPENDITURES.—

“(1) IN GENERAL.—No person shall knowingly
provide substantial assistance to a foreign national,
including a foreign government or foreign political
party, with respect to directly or indirectly making
a contribution or donation, or other thing of value,
or an expenditure, independent expenditure, or dis-
bursement for an electioneering communication
(within the meaning of section 304(f)(3)), or any
other act prohibited under subsection (a).

“(2) DEFINITION.—As used in this subsection,
the term ‘providing substantial assistance’ means,
with respect to an act described in paragraph (1),
the facilitation of such act by a foreign national, in-
cluding a foreign government or foreign political
party. Such facilitation includes the knowing republi-
cation of foreign government and foreign political
party electioneering communications referred to in
subsection (b), regardless of whether the commu-
nication was made in concert or cooperation with or
at the request or suggestion of a foreign government
or foreign political party.”.