

116TH CONGRESS
1ST SESSION

S. _____

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”.

1 **SEC. 2. INTERFERENCE IN ELECTIONS BY FOREIGN NA-**
2 **TIONALS.**

3 (a) IN GENERAL.—Chapter 29 of title 18, United
4 States Code, is amended by adding at the end the fol-
5 lowing:

6 **“§ 612. Interference in elections by foreign nationals**

7 “(a) PENALTY.—

8 “(1) IN GENERAL.—Whoever—

9 “(A) conspires with an individual, while
10 having knowledge or reasonable cause to believe
11 such individual is a foreign national, to prevent,
12 obstruct, impede, interfere with, promote, sup-
13 port, or oppose the nomination or the election
14 of any candidate for any Federal, State, or local
15 office, or any ballot measure, initiative, or ref-
16 erendum; and

17 “(B) knows or has reasonable cause to be-
18 lieve that an interfering act would be or has
19 been committed to effect the object of the con-
20 spiracy;

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

23 “(2) AGENTS OF FOREIGN POWERS.—Whoever
24 violates paragraph (1) by conspiring with an agent
25 of a foreign power shall be fined under this title, im-
26 prisoned for not more than 10 years, or both.

1 “(b) CONSECUTIVE SENTENCE.—No term of impris-
2 onment imposed on a person under this section shall run
3 concurrently with any other term of imprisonment im-
4 posed on the person under any other provision of law.

5 “(c) INJUNCTIONS.—

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

12 “(2) ACTION BY COURT.—The court shall pro-
13 ceed as soon as practicable to the hearing and deter-
14 mination of a civil action brought under this sub-
15 section, and may, at any time before final deter-
16 mination, enter such a restraining order or prohibi-
17 tion, or take such other action, as is warranted to
18 prevent a continuing and substantial injury to the
19 United States, a State, or a locality, or to any per-
20 son or class of persons for whose protection the civil
21 action is brought.

22 “(3) PROCEDURE.—

23 “(A) IN GENERAL.—A proceeding under
24 this subsection shall be governed by the Federal
25 Rules of Civil Procedure, except that, if an in-

1 dictment has been returned against the re-
2 spondent, discovery shall be governed by the
3 Federal Rules of Criminal Procedure.

4 “(B) SEALED PROCEEDINGS.—If a civil ac-
5 tion is brought under this subsection, before an
6 indictment is returned against the respondent
7 or while an indictment against the respondent
8 is under seal—

9 “(i) the court shall place the civil ac-
10 tion under seal; and

11 “(ii) when the indictment is unsealed,
12 the court shall unseal the civil action un-
13 less good cause exists to keep the civil ac-
14 tion under seal.

15 “(4) CLASSIFIED INFORMATION IF INDICTMENT
16 HAS NOT BEEN RETURNED AGAINST RESPOND-
17 ENT.—For any civil proceeding brought by the At-
18 torney General under this subsection in which an in-
19 dictment has not been returned against the respond-
20 ent, classified information in the civil proceeding
21 shall be subject to the procedures described in sec-
22 tion 2339B(f).

23 “(d) DEFINITIONS.—In this section—

24 “(1) the term ‘agent of a foreign power’—

1 “(A) has the meaning given to the term in
2 section 101 of the Foreign Intelligence Surveil-
3 lance Act of 1978 (50 U.S.C. 1801); and

4 “(B) does not include a United States per-
5 son (as defined under section 101 of the For-
6 eign Intelligence Surveillance Act of 1978 (50
7 U.S.C. 1801));

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

11 “(3) the term ‘foreign national’—

12 “(A) means a foreign principal, as such
13 term is defined by section 1(b) of the Foreign
14 Agents Registration Act of 1938 (22 U.S.C.
15 611(b)); and

16 “(B) does not include any individual who is
17 a citizen of the United States or a lawful per-
18 manent resident of the United States; and

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

22 “(A) this title;

23 “(B) section 12 of the Voting Rights Act
24 of 1965 (52 U.S.C. 10308);

1 “(D) UNLAWFUL VOTERS AND ELECTION
2 INTERFERENCE BY FOREIGN NATIONALS.—

3 “(i) UNLAWFUL VOTERS.—Except as
4 provided in clause (iii), any alien who has
5 voted in violation of any Federal, State, or
6 local constitutional provision, statute, ordi-
7 nance, or regulation is inadmissible.

8 “(ii) ELECTION INTERFERENCE BY
9 FOREIGN NATIONALS.—

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

15 “(II) EXCEPTION.—If an alien
16 described in subclause (I) is eligible
17 under section 245(j) for an adjust-
18 ment of status to that of an alien law-
19 fully admitted for permanent resi-
20 dence, the Secretary of Homeland Se-
21 curity, in the Secretary’s sole,
22 unreviewable discretion, may waive
23 the applicability of subclause (I) with
24 respect to such alien.

1 “(iii) EXCEPTION.—An alien shall not
2 be considered to be inadmissible under this
3 subparagraph if—

4 “(I) the alien voted in a Federal,
5 State, or local election (including an
6 initiative, recall, or referendum) in
7 violation of a lawful restriction of vot-
8 ing to citizens;

9 “(II) each natural parent of the
10 alien (or, in the case of an adopted
11 alien, each adoptive parent of the
12 alien) is or was a United States cit-
13 izen (whether by birth or naturaliza-
14 tion);

15 “(III) the alien permanently re-
16 sided in the United States before
17 reaching 16 years of age; and

18 “(IV) the alien reasonably be-
19 lieved at the time of the violation de-
20 scribed in clause (i) or (ii)(I) that he
21 or she was a United States citizen.”.

22 **SEC. 4. STRENGTHENING PROHIBITIONS ON EXPENDI-**
23 **TURES BY FOREIGN NATIONALS.**

24 Section 319 of the Federal Election Campaign Act
25 of 1971 (52 U.S.C. 30121) is amended—

1 (1) in subsection (a)(1)(C), by inserting “, sub-
2 ject to subsection (c)” after “within the meaning of
3 section 304(f)(3)”; and

4 (2) by adding at the end the following new sub-
5 sections:

6 “(c) APPLICATION TO ELECTIONEERING COMMU-
7 NICATIONS.—

8 “(1) ELECTIONEERING COMMUNICATIONS.—

9 “(A) IN GENERAL.—For purposes of ap-
10 plying subsection (a)(1)(C) and subsection (d),
11 an ‘electioneering communication’—

12 “(i) does not include a news story,
13 commentary, editorial, or other commu-
14 nication produced and distributed in the
15 ordinary course of bona fide press activity
16 by a news or press service or association,
17 newspaper, magazine, periodical, or other
18 publication as determined under subpara-
19 graph (B);

20 “(ii) except as provided in clause (i),
21 includes an Internet or digital communica-
22 tion that otherwise meets the requirements
23 of section 304(f)(3) as modified by this
24 paragraph;

1 “(iii) includes a communication that
2 does not refer to a clearly identified can-
3 didate for Federal office as described in
4 subparagraph (A)(i)(I) of section 304(f)(3)
5 if—

6 “(I) the communication otherwise
7 meets the requirements of such sec-
8 tion as modified by this paragraph ex-
9 cept that items (aa) and (bb) of sub-
10 subparagraph (A)(i)(II) of such section
11 shall each be applied by substituting
12 ‘Federal, State, or local office’ for ‘the
13 office sought by the candidate’;

14 “(II) the communication—

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

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

22 “(cc) republishes or is sub-
23 stantially identical to the commu-
24 nications of a candidate for Fed-

1 eral, State, or local office on that
2 same issue;

3 “(dd) expresses approval or
4 disapproval of a position reason-
5 ably identified with a candidate
6 for Federal, State, or local office
7 and presented in substantially
8 similar terms, regardless of
9 whether there is a specific ref-
10 erence to that candidate; or

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

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

18 “(B) DETERMINATION OF BONA FIDE
19 PRESS ACTIVITY.—For purposes of subpara-
20 graph (A)(i), a news story, commentary, edi-
21 torial, or other communication is not produced
22 and distributed in the ordinary course of bona
23 fide press activity by a news or press service or
24 association, newspaper, magazine, periodical, or

1 other publication and the exception under such
2 subparagraph shall not apply if—

3 “(i) such media outlet is owned, di-
4 rected, supervised, controlled, subsidized,
5 or financed by a government of a foreign
6 country, as defined in section 1 of the For-
7 eign Agents Registration Act of 1938 (22
8 U.S.C. 611); and

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

11 “(I) is directed, produced, or dis-
12 tributed, at the direction of govern-
13 ment or political party officials; and

14 “(II) promotes, attacks, sup-
15 ports, or opposes any candidate for
16 public office or political party in the
17 United States.

18 “(2) FOREIGN INDIVIDUAL INTERNET ACTIVITY
19 EXCEPTION.—

20 “(A) IN GENERAL.—When an individual or
21 a group of individuals engages in Internet ac-
22 tivities for the purposes of influencing an elec-
23 tion, neither of the following is a contribution
24 or expenditure for purposes of this section by
25 that individual or group of individuals:

1 “(i) The uncompensated personal
2 services of the individual related to such
3 internet activities. The exception under the
4 preceding sentence shall not apply to indi-
5 viduals or a group of individuals acting on
6 behalf of or in any capacity at the order,
7 request, or under the direction or control,
8 of a government of a foreign country, a
9 foreign political party, or a person whose
10 activities are directly or indirectly super-
11 vised, directed, controlled, financed, or
12 subsidized in whole or in major part by a
13 government of a foreign country or a for-
14 eign political party.

15 “(ii) The use of equipment or services
16 by the individual for uncompensated Inter-
17 net activities, regardless of the identity of
18 the owner of the equipment or services.
19 The exception under the preceding sen-
20 tence shall not apply to equipment or serv-
21 ices supplied or provided directly or indi-
22 rectly by a government of a foreign coun-
23 try, a foreign political party, or a person
24 whose activities are directly or indirectly
25 supervised, directed, controlled, financed,

1 or subsidized in whole or in major part by
2 a government of a foreign country or a for-
3 eign political party.

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

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

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

23 “(2) DEFINITION.—As used in this subsection,
24 the term ‘providing substantial assistance’ means,
25 with respect to an act described in paragraph (1),

1 the facilitation of such act by a foreign national, in-
2 cluding a foreign government or foreign political
3 party. Such facilitation includes the knowing republi-
4 cation of foreign government and foreign political
5 party electioneering communications referred to in
6 subsection (b), regardless of whether the commu-
7 nication was made in concert or cooperation with or
8 at the request or suggestion of a foreign government
9 or foreign political party.”.