AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

Calendar No. 301

112TH CONGRESS
2D SESSION

S. 2038

To prohibit Members of Congress and employees of Congress from using nonpublic information derived from their official positions for personal benefit, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 26, 2012

Mr. LIEBERMAN, from the Committee on Homeland Security and Governmental Affairs, reported the following original bill; which was read twice and placed on the calendar

---

A BILL

To prohibit Members of Congress and employees of Congress from using nonpublic information derived from their official positions for personal benefit, 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 of 2012'' or the ''STOCK Act''.

SEC. 2. USE OF NONPUBLIC INFORMATION FOR PERSONAL BENEFIT PROHIBITED.

The Congressional Accountability Act of 1995 (Public Law 104–1; 2 U.S.C. 1301 et seq.) is amended by at the end the following:

"TITLE VI—USE OF NONPUBLIC INFORMATION FOR PERSONAL BENEFIT PROHIBITED

"SEC. 601. DEFINITION.

''In this title—

''(1) the term 'Member of Congress' means a member of the Senate or the House of Representatives, a Delegate to the House of Representatives, and the Resident Commissioner from Puerto Rico; and

''(2) the term 'employee of Congress' means—

''(A) an employee of the Senate; and

''(B) an employee of the House of Representatives.

"SEC. 602. GENERAL PROHIBITION.

''No Member of Congress and no employee of Congress shall use any nonpublic information derived from the individual's position as a Member of Congress or employee of Congress, or gained from performance of the individual's duties, for personal benefit.

"SEC. 603. IMPLEMENTING RULES.

"The Select Committee on Ethics of the Senate and the Committee on Standards of Official Conduct of the House of Representatives shall issue rules or regulations to carry out the purposes of section 602.

"SEC. 604. APPLICABILITY TO SECURITIES LAWS.

"(a) IN GENERAL.—

"(1) NOT EXEMPT.—Members of Congress and employees of Congress are not exempt from the prohibitions arising under section 10(b) of the Securities Exchange Act of 1934 and Rule 10b–5 thereunder, including the insider trading prohibitions.

"(2) DUTY.—For purposes of the insider trading prohibitions arising under section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5 issued thereunder (or any successor to such Rule), section 602 affirms a duty arising from a relationship of trust and confidence owed by each Member of Congress and each employee of Congress to Congress, the United States Government, and the citizens of the United States.

"(b) RULEMAKING AUTHORITY.—The Securities and Exchange Commission may issue such rules or regulations as the Commission determines are necessary or appropriate to implement subsection (a) or to otherwise ensure that Members of Congress and employees of Congress are

subject to the insider trading prohibitions that apply generally.

"SEC. 605. APPROPRIATE PUNITIVE, DISCIPLINARY, AND OTHER REMEDIAL ACTION.

"A Member of Congress or an employee of Congress who violates the prohibition under section 602 shall be subject to appropriate punitive, disciplinary, and other remedial action in accordance with any applicable laws, resolutions, rules, or regulations.

"SEC. 606. RULE OF CONSTRUCTION.

"Nothing in this title shall be construed to be in derogation of existing obligations, duties and functions of a Member of Congress or an employee of Congress or to limit or otherwise alter the securities laws, the authority of the Securities and Exchange Commission under such laws, or other laws of the United States.".

SEC. 3. TECHNICAL, CONFORMING, AND CLERICAL AMENDMENTS.

The Congressional Accountability Act of 1995 is amended—

(1) in section 1(b) by inserting, after the item relating to section 509, the following:

"TITLE VI—USE OF NONPUBLIC INFORMATION FOR PERSONAL BENEFIT PROHIBITED

"Sec. 601. Definition.
"Sec. 602. General prohibition.
"Sec. 603. Implementing rules.
"Sec. 604. Applicability to securities laws.

"Sec. 605. Appropriate punitive, disciplinary, and other remedial action.
"Sec. 606. Rule of construction.";

and

(2) in section 413 (2 U.S.C. 1413) by striking "408" and inserting "408, or to bring a judicial proceeding to enforce the prohibition under section 602,".

SEC. 4. CONFORMING CHANGES TO THE COMMODITY EXCHANGE ACT.

Section 4c(a) of the Commodity Exchange Act (7 U.S.C. 6c(a)) is amended by—

(1) inserting "or any Member of Congress or congressional employee" after "Federal Government,"—

(A) the first time it appears in paragraph (3);

(B) the first time it appears in paragraph (4)(A);

(C) in paragraph (4)(B); and

(D) in paragraph clause (4)(C)(iii);

(2) inserting "or by Congress"—

(A) in paragraph (3), before "in a manner";

(B) in paragraph (4)(A), before "in a manner"; and

(C) in paragraph (4)(C)—

(i) before ''that may affect'' and

(ii) before ''in a manner'' ;

(3) in paragraphs (3) and (4)(A), inserting ''Member,'' after ''position of the''; and

(4) in paragraph (4)(C)(iii), inserting ''to Congress'' after ''Federal Government''.

SEC. 5. PROMPT REPORTING OF FINANCIAL TRANSACTIONS.

(a) REPORTING REQUIREMENT.—Section 101 of the Ethics in Government Act is amended by adding at the end the following subsection:

''(j) Within 30 days after any transaction required to be reported under subparagraph 102(a)(5)(B) of this Act, a Member of Congress or officer or employee of Congress shall file a report of the transaction.''.

(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 enactment of this Act.

SEC. 6. REPORT ON POLITICAL INTELLIGENCE ACTIVITIES.

(a) REPORT.—

(1) IN GENERAL.—Not later than 12 months after the date of enactment of this Act, the Comptroller General of the United States, in consultation with the Congressional Research Service, shall sub-

mit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Oversight and Government Reform of the House of Representatives a report on the role of political intelligence in the financial markets.

(2) CONTENTS.—The report required by this section shall include a discussion of—

(A) what is known about the prevalence of the sale of political intelligence and the extent to which investors rely on such information;

(B) what is known about the effect that the sale of political intelligence may have on the financial markets;

(C) the extent to which information which is being sold would be considered non-public information;

(D) the legal and ethical issues that may be raised by the sale of political intelligence;

(E) any benefits from imposing disclosure requirements on those who engage in political intelligence activities; and

(F) any legal and practical issues that may be raised by the imposition of disclosure requirements on those who engage in political intelligence activities.

(b) DEFINITION.—For purposes of this section, the term ''political intelligence'' shall mean information that is—

(1) derived by a seller from direct communications with executive branch and legislative branch officials; and

(2) provided in exchange for financial compensation to a client who intends, and who is known by the seller to intend, to use the information to inform investment decisions.

SEC. 7. PUBLIC FILING AND DISCLOSURE OF FINANCIAL DISCLOSURE FORMS OF MEMBERS OF CONGRESS AND CONGRESSIONAL STAFF.

(a) PUBLIC, ON-LINE DISCLOSURE OF FINANCIAL DISCLOSURE FORMS OF MEMBERS OF CONGRESS AND CONGRESSIONAL STAFF.—

(1) IN GENERAL.—Not later than August 31, 2012, or 90 days after the date of enactment of this Act, whichever is later, the Secretary of the Senate and the Sergeant at Arms of the Senate, and the Clerk of the House of Representatives, shall ensure that financial disclosure forms filed by Members of Congress, officers of the House and Senate, candidates for Congress, and employees of the Senate and the House of Representatives in calendar year

2012 and in subsequent years pursuant to title I of the Ethics in Government Act of 1978 are made available to the public on the respective official websites of the Senate and the House of Representatives not later than 30 days after such forms are filed.

(2) EXTENSIONS.—The existing protocol allowing for extension requests for financial disclosures shall be retained. Notices of extension for financial disclosure shall be made available electronically under this subsection along with its related disclosure.

(3) REPORTING TRANSACTIONS.—In the case of a transaction disclosure required by section 101(j) of the Ethics in Government Act of 1978, as added by this Act, such disclosures shall be filed not later than 30 days after the transaction. Notices of extension for transaction disclosure shall be made available electronically under this subsection along with its related disclosure.

(4) EXPIRATION.—The requirements of this subsection shall expire upon implementation of the public disclosure system established under subsection (b).

(b) ELECTRONIC FILING AND ON-LINE PUBLIC AVAILABILITY OF FINANCIAL DISCLOSURE FORMS OF MEMBERS OF CONGRESS, OFFICERS OF THE HOUSE AND SENATE, AND CONGRESSIONAL STAFF.—

(1) IN GENERAL.—Subject to paragraph (6) and not later than 18 months after the date of enactment of this Act, the Secretary of the Senate and the Sergeant at Arms of the Senate and the Clerk of the House of Representatives shall develop systems to enable—

(A) electronic filing of reports received by them pursuant to section 103(h)(1)(A) of title 1 of the Ethics in Government Act of 1978; and

(B) public access to financial disclosure reports filed by Members of Congress, Officers of the House and Senate, candidates for Congress, and employees of the Senate and House of Representatives, as well as reports of a transaction disclosure required by section 101(j) of the Ethics in Government Act of 1978, as added by this Act, notices of extensions, amendments and blind trusts, pursuant to title I of the Ethics in Government Act of 1978 through databases that—

(i) are maintained on the official websites of the House of Representatives and the Senate; and

(ii) allow the public to search, sort and download data contained in the reports.

(2) LOGIN.—No login shall be required to search or sort the data contained in the reports made available by this subsection. A login protocol with name of user shall be utilized by a person downloading data contained in the reports. For purposes of filings under this section, section 105(b)(2) of the Ethics in Government Act of 1978 does not apply.

(3) PUBLIC AVAILABILITY.—Pursuant to section 105(b)(1) of title 1 of the Ethics in Government Act of 1978, electronic availability on the official websites of the Senate and the House of Representatives under this subsection shall be deemed to have met the public availability requirement.

(4) FILERS COVERED.—Individuals required under the Ethics in Government Act of 1978 or the Senate Rules to file financial disclosure reports with the Secretary of the Senate or the Clerk of the House shall file reports electronically using the sys-

tems developed by the Secretary of the Senate and the Clerk of the House.

(5) EXTENSIONS.—The existing protocol allowing for extension requests for financial disclosures shall be retained for purposes of this subsection. Notices of extension for financial disclosure shall be made available electronically under this subsection along with its related disclosure.

(6) ADDITIONAL TIME.—The requirements of this subsection may be implemented after the date provided in paragraph (1) if the Secretary of the Senate or the Clerk of the House identify in writing to relevant congressional committees an additional amount of time needed.

(c) RECORDKEEPING.—Section 105(d) of the Ethics in Government Act of 1978 is amended to read as follows:

''(d)(1) Any report filed with or transmitted to an agency or supervising ethics office or to the Clerk of the House of Representatives or the Secretary of the Senate pursuant to this title shall be retained by such agency or office or by the Clerk or the Secretary of the Senate, as the case may be.

''(2) Such report shall be made available to the public—

"(A) in the case of a Member of Congress until a date that is 6 years from the date the individual ceases to be a Member of Congress; and

"(B) in the case of all other reports filed pursuant to this title, for a period of six years after receipt of the report.

"(3) After the relevant time period identified under paragraph (2), the report shall be destroyed unless needed in an ongoing investigation, except that in the case of an individual who filed the report pursuant to section 101(b) and was not subsequently confirmed by the Senate, or who filed the report pursuant to section 101(c) and was not subsequently elected, such reports shall be destroyed 1 year after the individual either is no longer under consideration by the Senate or is no longer a candidate for nomination or election to the Office of President, Vice President, or as a Member of Congress, unless needed in an ongoing investigation or inquiry.".

SEC. 8. FEDERAL EMPLOYEES.

(a) GENERAL PROHIBITION.—No Federal employee shall use any nonpublic information derived from the individual's position as a Federal employee, or gained from performance of the individual's duties, for personal benefit.

(b) IMPLEMENTING RULES.—Each office, officer, or entity responsible for administering title I of the Ethics in Government Act (5 U.S.C. App.) under section 111 of that Act shall issue rules or regulations to carry out the purposes of subsection (a) that shall be applicable to Federal employees subject to administration by the office, officer, or entity under that section 111.

(c) APPLICABILITY TO SECURITIES LAWS.—

(1) IN GENERAL.—For the purposes of the insider trading prohibitions arising under section 10(b) of the Securities Exchange Act of 1934 and Rule 10b–5 thereunder, the prohibition set forth in subsection (a) states a duty of trust and confidence of each Federal employee to the United States Government and the citizens of the United States.

(2) RULEMAKING AUTHORITY.—The Securities and Exchange Commission may issue such rules or regulations as the Commission determines are necessary or appropriate to implement subsection (a) or to otherwise ensure that Federal employees are subject to the insider trading prohibitions that apply generally.

(d) APPROPRIATE PUNITIVE, DISCIPLINARY, AND OTHER REMEDIAL ACTION.—A Federal employee who violates the prohibition under subsection (a) shall be sub-

ject to appropriate punitive, disciplinary, and other remedial action in accordance with any applicable laws, resolutions, rules, or regulations.

(e) FEDERAL EMPLOYEE.—In this section, the term ''Federal employee''—

(1) has the meaning given the term ''employee'' under section 2105 of title 5, United States Code; and

(2) includes—

(A) the President;

(B) the Vice President;

(C) a Member of Congress, as defined under section 2106 of title 5, United States Code;

(D) a judge or justice of the United States; and

(E) an employee of the United States Postal Service or the Postal Regulatory Commission.

(f) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to be in derogation of existing laws, regulations, or ethical obligations of Federal employees.

Calendar No. 301

112th CONGRESS
2d Session

S. 2038

A BILL

To prohibit Members of Congress and employees of Congress from using nonpublic information derived from their official positions for personal benefit, and for other purposes.

January 26, 2012

Read twice and placed on the calendar