

Calendar No. 301

112TH CONGRESS
2^D 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.

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 “Stop Trading on Con-
5 gressional Knowledge Act of 2012” or the “STOCK Act”.

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

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

6 **“TITLE VI—USE OF NONPUBLIC**
7 **INFORMATION FOR PER-**
8 **SONAL BENEFIT PROHIBITED**

9 **“SEC. 601. DEFINITION.**

10 “In this title—

11 “(1) the term ‘Member of Congress’ means a
12 member of the Senate or the House of Representa-
13 tives, a Delegate to the House of Representatives,
14 and the Resident Commissioner from Puerto Rico;
15 and

16 “(2) the term ‘employee of Congress’ means—

17 “(A) an employee of the Senate; and

18 “(B) an employee of the House of Rep-
19 resentatives.

20 **“SEC. 602. GENERAL PROHIBITION.**

21 “No Member of Congress and no employee of Con-
22 gress shall use any nonpublic information derived from the
23 individual’s position as a Member of Congress or employee
24 of Congress, or gained from performance of the individ-
25 ual’s duties, for personal benefit.

1 **“SEC. 603. IMPLEMENTING RULES.**

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

6 **“SEC. 604. APPLICABILITY TO SECURITIES LAWS.**

7 “(a) IN GENERAL.—

8 “(1) NOT EXEMPT.—Members of Congress and
9 employees of Congress are not exempt from the pro-
10 hibitions arising under section 10(b) of the Securi-
11 ties Exchange Act of 1934 and Rule 10b–5 there-
12 under, including the insider trading prohibitions.

13 “(2) DUTY.—For purposes of the insider trad-
14 ing prohibitions arising under section 10(b) of the
15 Securities Exchange Act of 1934 and Rule 10b-5
16 issued thereunder (or any successor to such Rule),
17 section 602 affirms a duty arising from a relation-
18 ship of trust and confidence owed by each Member
19 of Congress and each employee of Congress to Con-
20 gress, the United States Government, and the citi-
21 zens of the United States.

22 “(b) RULEMAKING AUTHORITY.—The Securities and
23 Exchange Commission may issue such rules or regulations
24 as the Commission determines are necessary or appro-
25 priate to implement subsection (a) or to otherwise ensure
26 that Members of Congress and employees of Congress are

1 subject to the insider trading prohibitions that apply gen-
2 erally.

3 **“SEC. 605. APPROPRIATE PUNITIVE, DISCIPLINARY, AND**
4 **OTHER REMEDIAL ACTION.**

5 “A Member of Congress or an employee of Congress
6 who violates the prohibition under section 602 shall be
7 subject to appropriate punitive, disciplinary, and other re-
8 medial action in accordance with any applicable laws, reso-
9 lutions, rules, or regulations.

10 **“SEC. 606. RULE OF CONSTRUCTION.**

11 “Nothing in this title shall be construed to be in dero-
12 gation of existing obligations, duties and functions of a
13 Member of Congress or an employee of Congress or to
14 limit or otherwise alter the securities laws, the authority
15 of the Securities and Exchange Commission under such
16 laws, or other laws of the United States.”.

17 **SEC. 3. TECHNICAL, CONFORMING, AND CLERICAL AMEND-**
18 **MENTS.**

19 The Congressional Accountability Act of 1995 is
20 amended—

21 (1) in section 1(b) by inserting, after the item
22 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.”;

1 and

2 (2) in section 413 (2 U.S.C. 1413) by striking
 3 “408” and inserting “408, or to bring a judicial pro-
 4 ceeding to enforce the prohibition under section
 5 602,”.

6 **SEC. 4. CONFORMING CHANGES TO THE COMMODITY EX-**
 7 **CHANGE ACT.**

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

10 (1) inserting “or any Member of Congress or
 11 congressional employee” after “Federal Govern-
 12 ment,”—

13 (A) the first time it appears in paragraph
 14 (3);

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

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

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

19 (2) inserting “or by Congress”—

20 (A) in paragraph (3), before “in a man-
 21 ner”;

22 (B) in paragraph (4)(A), before “in a man-
 23 ner”; and

24 (C) in paragraph (4)(C)—

1 (i) before “that may affect” and

2 (ii) before “in a manner” ;

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

5 (4) in paragraph (4)(C)(iii), inserting “to Con-
6 gress” after “Federal Government”.

7 **SEC. 5. PROMPT REPORTING OF FINANCIAL TRANS-**
8 **ACTIONS.**

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

12 “(j) Within 30 days after any transaction required
13 to be reported under subparagraph 102(a)(5)(B) of this
14 Act, a Member of Congress or officer or employee of Con-
15 gress shall file a report of the transaction.”.

16 (b) EFFECTIVE DATE.—The amendment made by
17 subsection (a) shall apply to transactions occurring on or
18 after the date that is 90 days after the date of enactment
19 of this Act.

20 **SEC. 6. REPORT ON POLITICAL INTELLIGENCE ACTIVITIES.**

21 (a) REPORT.—

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

1 mit to the Committee on Homeland Security and
2 Governmental Affairs of the Senate and the Com-
3 mittee on Oversight and Government Reform of the
4 House of Representatives a report on the role of po-
5 litical intelligence in the financial markets.

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

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

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

14 (C) the extent to which information which
15 is being sold would be considered non-public in-
16 formation;

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

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

22 (F) any legal and practical issues that may
23 be raised by the imposition of disclosure re-
24 quirements on those who engage in political in-
25 telligence activities.

1 (b) DEFINITION.—For purposes of this section, the
 2 term “political intelligence” shall mean information that
 3 is—

4 (1) derived by a seller from direct communica-
 5 tions with executive branch and legislative branch of-
 6 ficials; and

7 (2) provided in exchange for financial com-
 8 pensation to a client who intends, and who is known
 9 by the seller to intend, to use the information to in-
 10 form investment decisions.

11 **SEC. 7. PUBLIC FILING AND DISCLOSURE OF FINANCIAL**
 12 **DISCLOSURE FORMS OF MEMBERS OF CON-**
 13 **GRESS AND CONGRESSIONAL STAFF.**

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

17 (1) IN GENERAL.—Not later than August 31,
 18 2012, or 90 days after the date of enactment of this
 19 Act, whichever is later, the Secretary of the Senate
 20 and the Sergeant at Arms of the Senate, and the
 21 Clerk of the House of Representatives, shall ensure
 22 that financial disclosure forms filed by Members of
 23 Congress, officers of the House and Senate, can-
 24 didates for Congress, and employees of the Senate
 25 and the House of Representatives in calendar year

1 2012 and in subsequent years pursuant to title I of
2 the Ethics in Government Act of 1978 are made
3 available to the public on the respective official
4 websites of the Senate and the House of Representa-
5 tives not later than 30 days after such forms are
6 filed.

7 (2) EXTENSIONS.—The existing protocol allow-
8 ing for extension requests for financial disclosures
9 shall be retained. Notices of extension for financial
10 disclosure shall be made available electronically
11 under this subsection along with its related disclo-
12 sure.

13 (3) REPORTING TRANSACTIONS.—In the case of
14 a transaction disclosure required by section 101(j) of
15 the Ethics in Government Act of 1978, as added by
16 this Act, such disclosures shall be filed not later
17 than 30 days after the transaction. Notices of exten-
18 sion for transaction disclosure shall be made avail-
19 able electronically under this subsection along with
20 its related disclosure.

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

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

5 (1) IN GENERAL.—Subject to paragraph (6)
6 and not later than 18 months after the date of en-
7 actment of this Act, the Secretary of the Senate and
8 the Sergeant at Arms of the Senate and the Clerk
9 of the House of Representatives shall develop sys-
10 tems to enable—

11 (A) electronic filing of reports received by
12 them pursuant to section 103(h)(1)(A) of title
13 1 of the Ethics in Government Act of 1978; and

14 (B) public access to financial disclosure re-
15 ports filed by Members of Congress, Officers of
16 the House and Senate, candidates for Congress,
17 and employees of the Senate and House of Rep-
18 resentatives, as well as reports of a transaction
19 disclosure required by section 101(j) of the Eth-
20 ics in Government Act of 1978, as added by
21 this Act, notices of extensions, amendments and
22 blind trusts, pursuant to title I of the Ethics in
23 Government Act of 1978 through databases
24 that—

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

4 (ii) allow the public to search, sort
5 and download data contained in the re-
6 ports.

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

15 (3) PUBLIC AVAILABILITY.—Pursuant to sec-
16 tion 105(b)(1) of title 1 of the Ethics in Government
17 Act of 1978, electronic availability on the official
18 websites of the Senate and the House of Representa-
19 tives under this subsection shall be deemed to have
20 met the public availability requirement.

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

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

3 (5) EXTENSIONS.—The existing protocol allow-
4 ing for extension requests for financial disclosures
5 shall be retained for purposes of this subsection. No-
6 tices of extension for financial disclosure shall be
7 made available electronically under this subsection
8 along with its related disclosure.

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

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

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

23 “(2) Such report shall be made available to the pub-
24 lic—

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

4 “(B) in the case of all other reports filed pursu-
5 ant to this title, for a period of six years after re-
6 ceipt of the report.

7 “(3) After the relevant time period identified under
8 paragraph (2), the report shall be destroyed unless needed
9 in an ongoing investigation, except that in the case of an
10 individual who filed the report pursuant to section 101(b)
11 and was not subsequently confirmed by the Senate, or who
12 filed the report pursuant to section 101(c) and was not
13 subsequently elected, such reports shall be destroyed 1
14 year after the individual either is no longer under consid-
15 eration by the Senate or is no longer a candidate for nomi-
16 nation or election to the Office of President, Vice Presi-
17 dent, or as a Member of Congress, unless needed in an
18 ongoing investigation or inquiry.”.

19 **SEC. 8. FEDERAL EMPLOYEES.**

20 (a) GENERAL PROHIBITION.—No Federal employee
21 shall use any nonpublic information derived from the indi-
22 vidual’s position as a Federal employee, or gained from
23 performance of the individual’s duties, for personal ben-
24 efit.

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

8 (c) APPLICABILITY TO SECURITIES LAWS.—

9 (1) IN GENERAL.—For the purposes of the in-
10 sider trading prohibitions arising under section
11 10(b) of the Securities Exchange Act of 1934 and
12 Rule 10b–5 thereunder, the prohibition set forth in
13 subsection (a) states a duty of trust and confidence
14 of each Federal employee to the United States Gov-
15 ernment and the citizens of the United States.

16 (2) RULEMAKING AUTHORITY.—The Securities
17 and Exchange Commission may issue such rules or
18 regulations as the Commission determines are nec-
19 essary or appropriate to implement subsection (a) or
20 to otherwise ensure that Federal employees are sub-
21 ject to the insider trading prohibitions that apply
22 generally.

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

1 ject to appropriate punitive, disciplinary, and other reme-
2 dial action in accordance with any applicable laws, resolu-
3 tions, rules, or regulations.

4 (e) FEDERAL EMPLOYEE.—In this section, the term
5 “Federal employee”—

6 (1) has the meaning given the term “employee”
7 under section 2105 of title 5, United States Code;
8 and

9 (2) includes—

10 (A) the President;

11 (B) the Vice President;

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

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

17 (E) an employee of the United States
18 Postal Service or the Postal Regulatory Com-
19 mission.

20 (f) RULE OF CONSTRUCTION.—Nothing in this sec-
21 tion shall be construed to be in derogation of existing laws,
22 regulations, or ethical obligations of Federal employees.

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A BILL

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