

104TH CONGRESS
1ST SESSION

H. R. 2686

To provide for additional lobbying reform measures.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 29, 1995

Mr. FRANK of Massachusetts (for himself, Mr. SHAYS, Mr. BRYANT of Texas, Mr. TRAFICANT, Mr. SAWYER, Mr. BROWN of Ohio, and Ms. KAPTUR) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To provide for additional lobbying reform measures.

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. BAN ON TRADE OFFICIAL REPRESENTING OR**
4 **ADVISING FOREIGN ENTITIES.**

5 (a) REPRESENTING AFTER SERVICE.—Section
6 207(f)(2) of title 18, United States Code, is amended by—

7 (1) inserting “, Deputy United States Trade
8 Representative, Secretary of Commerce, or Commis-
9 sioner of the International Trade Commission” after
10 “is the United States Trade Representative”; and

1 (2) striking “within 3 years” and inserting “at
2 any time”.

3 (b) LIMITATION ON APPOINTMENTS.—Section 141(b)
4 of the Trade Act of 1974 (19 U.S.C. 2171(b)) is amended
5 by adding at the end the following new paragraph:

6 “(3) LIMITATION ON APPOINTMENTS.—A per-
7 son who has directly represented, aided, or advised
8 a foreign entity (as defined by section 207(f)(3) of
9 title 18, United States Code) in any trade negotia-
10 tion, or trade dispute, with the United States may
11 not be appointed as United States Trade Represent-
12 ative, Deputy United States Trade Representative,
13 Secretary of Commerce, or Commissioner of the
14 International Trade Commission.”.

15 (c) EFFECTIVE DATE.—The amendments made by
16 this section shall apply with respect to an individual ap-
17 pointed as United States Trade Representative, Deputy
18 United States Trade Representative, Secretary of Com-
19 merce, or Commissioner of the International Trade Com-
20 mission on or after the date of enactment of this Act.

21 **SEC. 2. LIMITATION ON REPRESENTING OR ADVISING CER-**
22 **TAIN FOREIGN ENTITIES.**

23 (a) AMENDMENT.—Section 207(f) of title 18, United
24 States Code, is amended to read as follows:

1 “(f) RESTRICTIONS RELATING TO FOREIGN ENTI-
2 TIES.—

3 “(1) PERMANENT RESTRICTION.—Any person
4 who is an officer or employee described in paragraph
5 (3) and who, after the termination of his or her
6 service or employment as such officer or employee,
7 knowingly acts as an agent or attorney for or other-
8 wise represents or advises, for compensation, a gov-
9 ernment of a foreign country or a foreign political
10 party, if the representation or advice relates directly
11 to a matter in which the United States is a party
12 or has a direct and substantial interest, shall be
13 punished as provided in section 216 of this title.

14 “(2) FIVE-YEAR RESTRICTION.—Any person
15 who is an officer or employee described in paragraph
16 (3) and who, within 5 years after the termination of
17 his or her service or employment as such officer or
18 employee, knowingly acts as an agent or attorney for
19 or otherwise represents or advises, for compensa-
20 tion—

21 “(A) a person outside of the United States,
22 unless such person—

23 “(i) if an individual, is a citizen of
24 and domiciled within the United States, or

1 “(ii) if not an individual, is organized
2 under or created by the laws of the United
3 States or of any State or other place sub-
4 ject to the jurisdiction of the United States
5 and has its principal place of business
6 within the United States, or

7 “(B) a partnership, association, corpora-
8 tion, organization, or other combination of per-
9 sons organized under the laws of or having its
10 principal place of business in a foreign country,
11 if the representation or advice relates directly to a
12 matter in which the United States is a party or has
13 a direct and substantial interest, shall be punished
14 as provided in section 216 of this title.

15 “(3) PERSONS TO WHOM RESTRICTIONS
16 APPLY.—The officers and employees referred to in
17 paragraphs (1) and (2) to whom the restrictions
18 contained in such paragraphs apply are—

19 “(A) the President of the United States;
20 and

21 “(B) any person subject to the restrictions
22 contained in subsection (c), (d), or (e).

23 “(4) DEFINITIONS.—For purposes of this sub-
24 section—

1 “(A) the term ‘compensation’ means any
2 payment, gift, benefit, reward, favor, or gratu-
3 ity which is provided, directly or indirectly, for
4 services rendered;

5 “(B) the term ‘government of a foreign
6 country’ has the meaning given that term in
7 section 1(e) of the Foreign Agents Registration
8 Act of 1938, as amended;

9 “(C) the term ‘foreign political party’ has
10 the meaning given that term in section 1(f) of
11 the Foreign Agents Registration Act of 1938,
12 as amended;

13 “(D) the term ‘United States’ means the
14 several States, the District of Columbia, and
15 any commonwealth, territory, or possession of
16 the United States; and

17 “(E) the term ‘State’ includes the District
18 of Columbia and any commonwealth, territory,
19 or possession of the United States.”.

20 (b) EFFECTIVE DATE.—

21 (1) IN GENERAL.—Subject to paragraph (2),
22 the amendment made by subsection (a) take effect
23 on January 1, 1996.

24 (2) EFFECT ON EMPLOYMENT.—

(A) The amendment made by subsection (a) does not, except as provided in subparagraph (B), apply to a person whose service as an officer or employee to which such amendment apply terminated before the effective date of such amendment.

(B) Subparagraph (A) does not preclude the application of the amendment made by subsection (a) to a person with respect to service as an officer or employee by that person on or after the effective date of such amendment.

SEC. 3. AMENDMENTS TO THE FOREIGN AGENTS REGISTRATION ACT.

(a) DEFINITIONS.—

(1) AGENT OF A FOREIGN PRINCIPAL.—

(A) IN GENERAL.—Section 1(c) of the Foreign Agents Registration Act of 1938, as amended (22 U.S.C. 611(c)), is amended—

(i) by striking “agent of a foreign principal” each place it appears and inserting “representative of a foreign principal”;

(ii) in paragraph (1)(iv), by striking “and” after the semicolon at the end;

1 (iii) in paragraph (2), by striking the
2 period at the end and inserting “; and”;
3 and

4 (iv) by adding at the end the follow-
5 ing:

6 “(3) any person who engages in political activi-
7 ties for purposes of furthering commercial, indus-
8 trial, or financial operations with a foreign principal.
9 For purposes of clause (1), a foreign principal shall be
10 considered to control a person in major part if the foreign
11 principal holds more than 50 percent equitable ownership
12 in such person or, subject to rebuttal evidence, if the for-
13 eign principal holds at least 20 percent but not more than
14 50 percent equitable ownership in such person.”.

15 (B) FURTHER DEFINITION.—Section 1(d)
16 of that Act (22 U.S.C. 611(d)) is amended to
17 read as follows:

18 “(d) The term ‘representative of a foreign principal’
19 does not include—

20 “(1) any news or press service or association
21 organized under the laws of the United States or of
22 any State or other place subject to the jurisdiction
23 of the United States, or any newspaper, magazine,
24 periodical, or other publication for which there is on
25 file with the United States Postal Service informa-

1 tion in compliance with section 3685 of title 39,
2 United States Code, published in the United States,
3 solely by virtue of any bona fide news or journalistic
4 activities, including the solicitation or acceptance of
5 advertisements, subscriptions, or other compensation
6 therefor, so long as it is at least 80 percent bene-
7 ficially owned by, and its officers and directors, if
8 any, are citizens of the United States, and such
9 news or press service or association, newspaper mag-
10 azine, periodical, or other publication, is not owned,
11 directed, supervised, controlled, subsidized, or fi-
12 nanced, and none of its policies are determined by
13 any foreign principal defined in subsection (b) of
14 this section, or by any representative of a foreign
15 principal required to register under this Act; or

16 “(2) any incorporated, nonprofit membership
17 organization organized under the laws of the United
18 States or of any State or other place subject to the
19 jurisdiction of the United States that is registered
20 under section 308 of the Federal Regulation of Lob-
21 bying Act and has obtained tax-exempt status under
22 section 501(c) of the Internal Revenue Code of 1986
23 and whose activities are directly supervised, directed,
24 controlled, financed, or subsidized in whole by citi-
25 zens of the United States.”.

1 (2) POLITICAL PROMOTIONAL OR INFORMA-
2 TIONAL MATERIALS.—Section 1(j) of that Act (22
3 U.S.C. 611(j)) is amended—

4 (A) in the matter preceding clause (1), by
5 striking “propaganda” and inserting “pro-
6 motional or informational materials”; and

7 (B) in clause (1), by striking “prevail
8 upon, indoctrinate, convert, induce, or in any
9 other way” and inserting “in any way”.

10 (3) POLITICAL ACTIVITIES.—Section 1(o) of
11 that Act (22 U.S.C. 611(o)) is amended—

12 (A) by striking “prevail upon, indoctrinate,
13 convert, induce, persuade, or in any other way”
14 and inserting “in any way”; and

15 (B) by striking “or changing the domestic
16 or foreign” and inserting “enforcing, or chang-
17 ing the domestic or foreign laws, regulations,
18 or”.

19 (4) POLITICAL CONSULTANT.—Section 1(p) of
20 that Act (22 U.S.C. 611(p)) is amended—

21 (A) by inserting “(1)” after “any person”;
22 and

23 (B) by inserting before the semicolon at
24 the end the following: “, or (2) who distributes
25 political promotional or informational materials

1 to an officer or employee of the United States
2 Government, in his or her capacity as such offi-
3 cer or employee”.

4 (b) SUPPLEMENTAL REGISTRATION.—Section 2(b) of
5 that Act (22 U.S.C. 612(b)) is amended—

6 (1) in the first sentence by striking “, within
7 thirty days” and all that follows through “preceding
8 six months’ period” and inserting “on January 31
9 and July 31 of each year file with the Attorney Gen-
10 eral a supplement thereto under oath, on a form
11 prescribed by the Attorney General, which shall set
12 forth regarding the six-month periods ending the
13 previous December 31, and June 30, respectively, or,
14 if a lesser period, the period since the initial filing,”;
15 and

16 (2) by inserting after the first sentence the fol-
17 lowing new sentence: “Any registrant using an ac-
18 counting system with a fiscal year which is different
19 from the calendar year may petition the Attorney
20 General to permit the filing of supplemental state-
21 ments at the close of the first and seventh month of
22 each such fiscal year in lieu of the dates specified by
23 the preceding sentence.”.

1 (c) REMOVAL OF EXEMPTION FOR CERTAIN COUN-
2 TRIES.—Section 3(f) of that Act (22 U.S.C. 613(f)) is re-
3 pealed.

4 (d) LIMITING EXEMPTION FOR LEGAL REPRESENTA-
5 TION.—Section 3(g) of that Act (22 U.S.C. 613(g)) is
6 amended by striking “or any agency of the Government
7 of the United States” and all that follows through “infor-
8 mal” and inserting “or before the Patent and Trademark
9 Office, including any written submission to that Office”.

10 (e) NOTIFICATION OF RELIANCE ON EXEMPTIONS.—
11 Section 3 of that Act (22 U.S.C. 613) is amended by add-
12 ing at the end the following:

13 “Any person who does not register under section 2(a)
14 on account of any provision of subsections (a) through (g)
15 of this section shall so notify the Attorney General in such
16 form and manner as the Attorney General prescribes.”.

17 (f) CIVIL PENALTIES AND ENFORCEMENT PROVI-
18 SIONS.—Section 8 of that Act (22 U.S.C. 618) is amended
19 by adding at the end the following:

20 “(i)(1) Any person who is determined, after notice
21 and opportunity for an administrative hearing—

22 “(A) to have failed to file when such filing is
23 required a registration statement under section 2(a)
24 or a supplement thereto under section 2(b),

1 “(B) to have omitted a material fact required to
2 be stated therein, or

3 “(C) to have made a false statement with re-
4 spect to such a material fact,

5 shall be required to pay for each violation committed a
6 civil penalty of not less than \$2,000 and not more than
7 \$1,000,000. In determining the amount of the penalty, the
8 Attorney General shall give due consideration to the na-
9 ture and duration of the violation.

10 “(2)(A) Whenever the Attorney General has reason
11 to believe that any person may be in possession, custody,
12 or control of any documentary material relevant to an in-
13 vestigation regarding any violation of paragraph (1) of
14 this subsection or of section 5, the Attorney General may,
15 before bringing any civil or criminal proceeding thereon,
16 issue in writing, and cause to be served upon such person,
17 a civil investigative demand requiring such person to
18 produce such material for examination.

19 “(B) Civil investigative demands issued under this
20 paragraph shall be subject to the applicable provisions of
21 section 1968 of title 18, United States Code.”.

22 (g) CHANGE IN SHORT TITLE OF THE ACT.—Section
23 14 of that Act (22 U.S.C. 611 note) is amended by strik-
24 ing “Foreign Agents Registration Act of 1938, as amend-
25 ed” and inserting “Foreign Interests Representation Act”.

1 (h) REFERENCES TO AGENT OF A FOREIGN PRIN-
2 CIPAL.—The Foreign Agents Registration Act of 1938, as
3 amended is amended—

4 (1) by striking “agent of a foreign principal”
5 each place it appears and inserting “representative
6 of a foreign principal”;

7 (2) by striking “agents of foreign principals”
8 each place it appears and inserting “representatives
9 of foreign principals”;

10 (3) by striking “agent of such principal” each
11 place it appears and inserting “representative of
12 such principal”; and

13 (4) by striking “such agent” each place it ap-
14 pears and inserting “such representative”.

15 (i) REFERENCES TO POLITICAL PROPAGANDA.—

16 (1) The paragraph preceding section 1 of the
17 Foreign Agents Registration Act of 1938, as amend-
18 ed is amended by striking “propaganda” and insert-
19 ing “political”.

20 (2) The Foreign Interests Representation Act
21 (other than the paragraph amended by paragraph
22 (1) of this subsection) is amended by striking “prop-
23 aganda” each place it appears and inserting “pro-
24 motional or informational materials”.

25 (j) REFERENCES TO THE ACT.—

1 (1) Section 207(f)(2) of title 18, United States
2 Code, is amended by striking “Foreign Agents Reg-
3 istration Act of 1938, as amended,” and inserting
4 “Foreign Interests Representation Act”.

5 (2) Section 219 of title 18, United States Code,
6 is amended—

7 (A) in subsection (a) by striking “agent of
8 a foreign principal required to register under
9 the Foreign Agents Registration Act of 1938,
10 as amended,” and inserting “representative of a
11 foreign principal required to register under the
12 Foreign Interests Representation Act”; and

13 (B) in subsection (b)—

14 (i) by striking “agent of a foreign
15 principal” and inserting “representative of
16 a foreign principal”;

17 (ii) by striking “such agent” and in-
18 serting “such representative”; and

19 (iii) by striking “Foreign Agents Reg-
20 istration Act of 1938, as amended” and in-
21 serting “Foreign Interests Representation
22 Act”.

23 (3) Section 5210(4) of the Competitiveness Pol-
24 icy Council Act (15 U.S.C. 4809(4)) is amended—

(A) by striking “agent of a foreign principal” and inserting “representative of a foreign principal”; and

(B) by striking “subsection (d) of the first section of the Foreign Agents Registration Act of 1938 (22 U.S.C. 611)” and inserting “section 1(d) of the Foreign Interests Representation Act (22 U.S.C. 611(d))”.

(4) Section 34(a) of the Trading With the Enemy Act (50 U.S.C. App. 34(a)) is amended by striking “Act of June 8, 1934 (ch. 327, 52 Stat. 631), as amended” and inserting “Foreign Interests Representation Act”.

SEC. 4. MISUSE OF NAME.

(a) AMENDMENT.—Chapter 47 of title 18, United States Code, is amended by adding at the end the following:

“§ 1035. Misappropriation of Person’s Name in Connection with Lobbying Contact

“Whoever falsely uses or employs the name of any person, or causes such name to be falsely used or employed, in any telegram, letter, other printed or written matter, or electronic communication intended or designed to influence in any manner a Member of Congress to favor or oppose, by vote or otherwise, any legislation before the

1 Congress or any nomination pending before the Senate,
 2 whether before or after the introduction of such legislation
 3 or the submission of such nomination, for the purpose of
 4 conveying the impression that such person authorized such
 5 use or employment of the person's name shall be fined
 6 under this title or imprisoned for not more than one year,
 7 or both.”.

8 (b) CONFORMING AMENDMENT.—The table of sec-
 9 tions for such chapter 47 is amended by adding at the
 10 end the following:

“1035. Misappropriation of person's name in connection with lobbying contact.”.

11 **SEC. 5. DISCLOSURES OF VISITS TO MEMBERS AND SEN-**
 12 **ATORS.**

13 (a) IN GENERAL.—The Clerk of the House of Rep-
 14 resentatives and the Secretary of the Senate shall jointly
 15 establish a registry to record visits to Members of the
 16 House of Representatives and Senators by lobbyists reg-
 17 istered under any Federal law which requires lobbyists to
 18 register. Such lobbyists shall record each such visit, in-
 19 cluding the date of the visit and the subject of the visit.
 20 The registry shall be open to the public.

21 (b) EFFECTIVE DATE.—Subsection (a) shall take ef-
 22 fect January 1, 1996.

