

106TH CONGRESS
1ST SESSION

S. 1991

To amend the Federal Election Campaign Act of 1971 to enhance criminal penalties for election law violations, to clarify current provisions of law regarding donations from foreign nationals, and for other purposes.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 19, 1999

Mr. THOMPSON (for himself, Mr. LIEBERMAN, Ms. COLLINS, and Mr. LEAHY) introduced the following bill; which was read twice and referred to the Committee on Rules and Administration

A BILL

To amend the Federal Election Campaign Act of 1971 to enhance criminal penalties for election law violations, to clarify current provisions of law regarding donations from foreign nationals, 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. INCREASE IN PENALTIES.**

4 (a) IN GENERAL.—Subparagraph (A) of section
5 309(d)(1) of the Federal Election Campaign Act of 1971
6 (2 U.S.C. 437g(d)(1)(A)) is amended to read as follows:

7 “(A) Any person who knowingly and willfully com-
8 mits a violation of any provision of this Act which involves

1 the making, receiving, or reporting of any contribution,
2 donation, or expenditure—

3 “(i) aggregating \$25,000 or more during a cal-
4 endar year shall be fined under title 18, United
5 States Code, or imprisoned for not more than 5
6 years, or both; or

7 “(ii) aggregating \$2,000 or more (but less than
8 \$25,000) during a calendar year shall be fined under
9 such title, or imprisoned for not more than one year,
10 or both.”.

11 (b) EFFECTIVE DATE.—The amendment made by
12 this section shall apply to violations occurring on or after
13 the date of enactment of this Act.

14 **SEC. 2. STATUTE OF LIMITATIONS.**

15 (a) IN GENERAL.—Section 406(a) of the Federal
16 Election Campaign Act of 1971 (2 U.S.C. 455(a)) is
17 amended by striking “3” and inserting “5”.

18 (b) EFFECTIVE DATE.—The amendment made by
19 this section shall apply to violations occurring on or after
20 the date of enactment of this Act.

21 **SEC. 3. SENTENCING GUIDELINES.**

22 (a) IN GENERAL.—The United States Sentencing
23 Commission shall—

24 (1) promulgate a guideline, or amend an exist-
25 ing guideline under section 994 of title 28, United

1 States Code, in accordance with paragraph (2), for
2 penalties for violations of the Federal Election Cam-
3 paign Act of 1971 and related election laws; and

4 (2) submit to Congress an explanation of any
5 guidelines promulgated under paragraph (1) and any
6 legislative or administrative recommendations re-
7 garding enforcement of the Federal Election Cam-
8 paign Act of 1971 and related election laws.

9 (b) CONSIDERATIONS.—The Commission shall pro-
10 vide guidelines under subsection (a) taking into account
11 the following considerations:

12 (1) Ensure that the sentencing guidelines and
13 policy statements reflect the serious nature of such
14 violations and the need for aggressive and appro-
15 priate law enforcement action to prevent such viola-
16 tions.

17 (2) Provide a sentencing enhancement for any
18 person convicted of such violation if such violation
19 involves—

20 (A) a contribution, donation, or expendi-
21 ture from a foreign source;

22 (B) a large number of illegal transactions;

23 (C) a large aggregate amount of illegal
24 contributions, donations, or expenditures;

1 (D) the receipt or disbursement of govern-
2 mental funds; and

3 (E) an intent to achieve a benefit from the
4 Government.

5 (3) Provide a sentencing enhancement for any
6 violation by a person who is a candidate or a high-
7 ranking campaign official for such candidate.

8 (4) Assure reasonable consistency with other
9 relevant directives and guidelines of the Commission.

10 (5) Account for aggravating or mitigating cir-
11 cumstances that might justify exceptions, including
12 circumstances for which the sentencing guidelines
13 currently provide sentencing enhancements.

14 (6) Assure the guidelines adequately meet the
15 purposes of sentencing under section 3553(a)(2) of
16 title 18, United States Code.

17 (c) EFFECTIVE DATE; EMERGENCY AUTHORITY TO
18 PROMULGATE GUIDELINES.—

19 (1) EFFECTIVE DATE.—The United States Sen-
20 tencing Commission shall promulgate guidelines
21 under this section not later than the later of—

22 (A) 90 days after the date of enactment of
23 this Act; or

1 (B) 90 days after the date on which at
2 least a majority of the members of the Commis-
3 sion are appointed and holding office.

4 (2) EMERGENCY AUTHORITY TO PROMULGATE
5 GUIDELINES.—The Commission shall promulgate
6 guidelines under this section in accordance with the
7 procedures set forth in section 21(a) of the Sen-
8 tencing Reform Act of 1987, as though the authority
9 under such Act has not expired.

10 **SEC. 4. PROHIBITION ON CONTRIBUTIONS AND DONATIONS**
11 **BY FOREIGN NATIONALS.**

12 (a) IN GENERAL.—Section 319(a) of the Federal
13 Election Campaign Act of 1971 (2 U.S.C. 441e(a)) is
14 amended to read as follows:

15 “(a) PROHIBITIONS ON CONTRIBUTIONS AND DONA-
16 TIONS.—

17 “(1) IN GENERAL.—Subject to paragraph (2),
18 it shall be unlawful for—

19 “(A) a foreign national, or an entity that
20 is a domestic subsidiary of a foreign national,
21 to make, directly or through any other person,
22 any contribution of money or other thing of
23 value, or promise expressly or impliedly to make
24 any such contribution, in connection with an
25 election to any political office or in connection

1 with any primary election, convention, or cau-
2 cus held to select a candidate for any political
3 office or make any donation, or promise ex-
4 pressly or impliedly to make any such donation;
5 or

6 “(B) any person to solicit, accept, or re-
7 ceive any such contribution or donation from a
8 foreign national.

9 “(2) EXCEPTION.—Paragraph (1) shall not
10 apply to an entity that is a domestic subsidiary of
11 a foreign national if the entity can demonstrate
12 through a reasonable accounting method that the en-
13 tity has sufficient funds in the entity’s account,
14 other than funds given or loaned by the foreign na-
15 tional parent of the entity, from which the contribu-
16 tion or donation is made.”.

17 (b) DEFINITION OF DONATION.—Section 301 of the
18 Federal Election Campaign Act of 1971 (2 U.S.C. 431)
19 is amended by adding at the end the following:

20 “(20) DONATION.—

21 “(A) IN GENERAL.—The term ‘donation’
22 means a gift, subscription, loan, advance, or de-
23 posit of money or anything else of value made
24 by any person to a national committee of a po-
25 litical party or a Senatorial or Congressional

1 Campaign Committee of a national political
 2 party for any purpose, but does not include a
 3 contribution (as defined in paragraph (8)).

4 “(B) FOREIGN NATIONAL.—In the case of
 5 a person which is a foreign national (as defined
 6 in section 319(b)), the term ‘donation’ includes
 7 a gift, subscription, loan, advance, or deposit of
 8 money or anything else of value made by such
 9 person to a State or local committee of a polit-
 10 ical party or a candidate for State or local of-
 11 fice.”.

12 (c) CONFORMING AMENDMENT.—Section 319 of Fed-
 13 eral Election Campaign Act of 1971 (2 U.S.C. 431 et seq.)
 14 is amended by striking the heading and inserting “RE-
 15 STRICTIONS ON FOREIGN NATIONALS”.

16 **SEC. 5. PROHIBITION ON DONATIONS IN NAME OF AN-**
 17 **OTHER.**

18 Section 320 of the Federal Election Campaign Act
 19 of 1971 (2 U.S.C. 441f) is amended by inserting “or dona-
 20 tion” after “contribution” each place it appears.

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