

116TH CONGRESS
1ST SESSION

H. R. 4736

To amend the Foreign Agents Registration Act of 1938 to clarify the coverage of political activities directed within the United States by agents of foreign principals outside of the United States, to amend the Federal Election Campaign Act of 1971 to clarify the application of disclaimer rules for political advertisements which are disseminated online and to reduce the incidence of illicit foreign money in elections, to amend the Help America Vote Act of 2002 to prohibit the collection and transmission of ballots by third parties in elections for Federal office and to prohibit the availability of funds under such Act to States which permit non-citizens to vote in elections for public office, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 18, 2019

Mr. RODNEY DAVIS of Illinois (for himself, Mr. DIAZ-BALART, Miss GONZÁLEZ-COLÓN of Puerto Rico, Mr. BACON, Ms. HERRERA BEUTLER, Mr. POSEY, Mr. KING of New York, Mr. WALKER, Ms. STEFANIK, Mr. STAUBER, and Mr. STEUBE) introduced the following bill; which was referred to the Committee on House Administration, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Foreign Agents Registration Act of 1938 to clarify the coverage of political activities directed within the United States by agents of foreign principals outside of the United States, to amend the Federal Election Campaign Act of 1971 to clarify the application of disclaimer rules for political advertisements which are

disseminated online and to reduce the incidence of illicit foreign money in elections, to amend the Help America Vote Act of 2002 to prohibit the collection and transmission of ballots by third parties in elections for Federal office and to prohibit the availability of funds under such Act to States which permit non-citizens to vote in elections for public office, 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; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
 5 “Honest Elections Act”.

6 (b) **TABLE OF CONTENTS.**—The table of contents of
 7 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—FOREIGN AGENTS REGISTRATION REFORM

Sec. 101. Clarification of coverage of activities directed within the United States by agents outside of the United States.

Sec. 102. Application of press exemption to other forms of media.

Sec. 103. Treatment of activities to influence public opinion on elections as political activity.

Sec. 104. Effective date.

TITLE II—DISCLAIMER REQUIREMENTS FOR ONLINE POLITICAL ADVERTISEMENTS

Sec. 201. Clarifying disclaimer requirements for online political advertisements.

TITLE III—REDUCING ILLICIT FOREIGN MONEY IN ELECTIONS

Sec. 301. Report on illicit foreign money in Federal elections.

Sec. 302. Prohibition on contributions and donations by foreign nationals in connection with ballot initiatives and referenda.

TITLE IV—PROHIBITING PAYMENT OF ELECTION ASSISTANCE FUNDS TO STATES ALLOWING BALLOT HARVESTING

Sec. 401. Prohibition on payments to States allowing collection and transmission of ballots by certain third parties.

TITLE V—PROHIBITING PAYMENT OF ELECTION ASSISTANCE
FUNDS TO STATES ALLOWING VOTING BY NON-CITIZENS

Sec. 501. Prohibition on payments to States allowing voting by non-citizens.

1 **TITLE I—FOREIGN AGENTS**
2 **REGISTRATION REFORM**

3 **SEC. 101. CLARIFICATION OF COVERAGE OF ACTIVITIES DI-**
4 **RECTED WITHIN THE UNITED STATES BY**
5 **AGENTS OUTSIDE OF THE UNITED STATES.**

6 (a) TREATMENT OF AGENTS ENGAGED IN ACTIVI-
7 TIES AS AGENTS OF FOREIGN PRINCIPALS.—Section
8 1(c)(1) of the Foreign Agents Registration Act of 1938,
9 as amended (22 U.S.C. 611(c)(1)), is amended—

10 (1) by striking “or” at the end of clause (iii);

11 (2) by striking “and” at the end of clause (iv)

12 and inserting “or”; and

13 (3) by adding at the end the following new

14 clause:

15 “(v) engages outside the United States in

16 political activities for or in the interests of such

17 foreign principal which are directed at persons

18 within the United States, including activities

19 consisting of communications disseminated

20 within the United States through telecommuni-

21 cations or computer equipment or services, the

22 Internet, broadcast, cable, satellite, print, or

23 mail; and”.

1 (b) CONFORMING AMENDMENT.—Section 9 of such
2 Act (22 U.S.C. 619) is amended by striking the period
3 at the end and inserting the following: “, and shall be ap-
4 plicable outside the United States to the extent described
5 in section 1(c)(1)(v).”.

6 **SEC. 102. APPLICATION OF PRESS EXEMPTION TO OTHER**
7 **FORMS OF MEDIA.**

8 (a) APPLICATION.—Section 1(d) of the Foreign
9 Agents Registration Act of 1938, as amended (22 U.S.C.
10 611(d)(1)), is amended to read as follows:

11 “(d) The term ‘agent of a foreign principal’ does not
12 include any bona fide media outlet organized under the
13 laws of the United States or of any State or other place
14 subject to the jurisdiction of the United States, or any
15 bona fide media outlet for which there is on file with the
16 United States Postal Service information in compliance
17 with section 3685 of title 39, United States Code, pub-
18 lished in the United States, solely by virtue of any bona
19 fide news or journalistic activities, including the sollicita-
20 tion or acceptance of paid advertisements, subscriptions,
21 free social media access which is made available to the
22 general public, or other compensation therefor, so long as
23 it is at least 80 per centum beneficially owned by, and
24 its officers and directors, if any, are citizens of the United
25 States, and such media outlet is not owned, directed, su-

1 pervised, controlled, subsidized, or financed, and none of
2 its policies are determined by, any foreign principal de-
3 fined in subsection (b), or by any agent of a foreign prin-
4 cipal required to register under this Act.”.

5 (b) DEFINITION.—Section 1 of such Act (22 U.S.C.
6 611) is amended by adding at the end the following new
7 subsection:

8 “(q) The term ‘media outlet’ means any of the fol-
9 lowing:

10 “(1) Any newspaper, magazine, or periodical.

11 “(2) Any broadcast, satellite or cable television
12 or radio station.

13 “(3) Any Internet-based website, application, or
14 platform.”.

15 **SEC. 103. TREATMENT OF ACTIVITIES TO INFLUENCE PUB-**
16 **LIC OPINION ON ELECTIONS AS POLITICAL**
17 **ACTIVITY.**

18 Section 1(o) of the Foreign Agents Registration Act
19 of 1938, as amended (22 U.S.C. 611(o)), is amended by
20 striking the semicolon at the end and inserting the fol-
21 lowing: “, or with reference to public opinion about public
22 officials, candidates, or elections of the United States.”.

1 **SEC. 104. EFFECTIVE DATE.**

2 The amendments made by this title shall apply with
3 respect to activities carried out on or after the date of
4 the enactment of this Act.

5 **TITLE II—DISCLAIMER RE-**
6 **QUIREMENTS FOR ONLINE**
7 **POLITICAL ADVERTISEMENTS**

8 **SEC. 201. CLARIFYING DISCLAIMER REQUIREMENTS FOR**
9 **ONLINE POLITICAL ADVERTISEMENTS.**

10 (a) CLARIFICATION.—Section 318 of the Federal
11 Election Campaign Act of 1971 (52 U.S.C. 30120) is
12 amended by adding at the end the following new sub-
13 section:

14 “(e) APPLICATION OF REQUIREMENTS TO ONLINE
15 COMMUNICATIONS.—

16 “(1) METHOD OF PROVISION OF INFORMA-
17 TION.—Except as provided in paragraph (2) or
18 paragraph (3), a covered Internet communication
19 shall provide the information required under this
20 section on the face of the communication.

21 “(2) AUTHORIZING USE OF ALTERNATIVE
22 MECHANISMS.—

23 “(A) IN GENERAL.—In the case of a cov-
24 ered Internet communication described in sub-
25 paragraph (C) of paragraph (4), the commu-
26 nication may provide the information required

1 under this section through the use of a techno-
2 logical mechanism described in subparagraph
3 (B), so long as the communication presents an
4 indicator described in subparagraph (C).

5 “(B) TECHNOLOGICAL MECHANISM DE-
6 SCRIBED.—A technological mechanism de-
7 scribed in this subparagraph is, with respect to
8 a communication, any technology which enables
9 the individual reading, observing, or listening to
10 the communication to read, observe, or listen to
11 the information required under this section
12 without navigating more than one step away
13 from the communication itself. Such mechanism
14 may take any form, including hover-over,
15 mouse-over, voice-over, rollover, pop-up screen,
16 scrolling text, rotating panels, or click-through
17 or hyperlink to a landing page.

18 “(C) INDICATOR DESCRIBED.—An indi-
19 cator described in this subparagraph is, with re-
20 spect to a communication, any clear and con-
21 spicuous visible or audible element of the com-
22 munication that gives notice to the individual
23 reading, observing, or listening to the commu-
24 nication that the individual may read, observe,
25 or listen to the information required under this

1 section through a technological mechanism. An
2 indicator may take any form, including words
3 such as ‘Paid for by’, ‘Paid by’, ‘Sponsored by’,
4 or ‘Ad by’, a website URL, an image, a sound,
5 a symbol, or an icon.

6 “(3) WAIVER.—A disclaimer shall not be re-
7 quired for any covered Internet communication that
8 cannot provide a clear and conspicuous statement of
9 the information required under this section either on
10 the face of communication or through the use of a
11 technological mechanism under paragraph (2).

12 “(4) COVERED INTERNET COMMUNICATION DE-
13 FINED.—In this subsection, the term ‘covered Inter-
14 net communication’ means any communication which
15 is required to include information under this section
16 and which is any of the following:

17 “(A) Any electronic mailing of more than
18 500 substantially similar communications which
19 is disseminated by a political committee.

20 “(B) Any communication disseminated on
21 a publicly available website of a political com-
22 mittee.

23 “(C) Any communication placed for a fee
24 on another person’s website or Internet-based
25 application or platform.”.

1 (b) EFFECTIVE DATE.—The amendments made by
2 this section shall apply with respect to communications
3 made after the expiration of the 30-day period which be-
4 gins on the date of the enactment of this Act.

5 **TITLE III—REDUCING ILLICIT**
6 **FOREIGN MONEY IN ELECTIONS**

7 **SEC. 301. REPORT ON ILLICIT FOREIGN MONEY IN FED-**
8 **ERAL ELECTIONS.**

9 (a) IN GENERAL.—Title III of the Federal Election
10 Campaign Act of 1971 (52 U.S.C. 30101 et seq.) is
11 amended by inserting after section 319 the following new
12 section:

13 **“SEC. 319A. REPORT ON PRESENCE OF ILLICIT FOREIGN**
14 **MONEY.**

15 “(a) REPORT.—Not later than 180 days after the end
16 of each Federal election cycle, the Commission shall sub-
17 mit to Congress a report containing—

18 “(1) an analysis of the presence of illicit foreign
19 money in such cycle; and

20 “(2) recommendations to address the presence
21 of illicit foreign money in elections, as appropriate.

22 “(b) DEFINITIONS.—As used in this section:

23 “(1) The term ‘Federal election cycle’ means
24 the period which begins on the day after the date of
25 a regularly scheduled general election for Federal of-

1 fice and which ends on the date of the first regularly
2 scheduled general election for Federal office held
3 after such date.

4 “(2) The term ‘illicit foreign money’ means any
5 disbursement by a foreign national (as defined in
6 section 319(b)) prohibited under such section.”.

7 (b) EFFECTIVE DATE.—The amendment made by
8 subsection (a) shall apply with respect to the Federal elec-
9 tion cycle that began during November 2018, and each
10 succeeding Federal election cycle.

11 **SEC. 302. PROHIBITION ON CONTRIBUTIONS AND DONA-**
12 **TIONS BY FOREIGN NATIONALS IN CONNEC-**
13 **TION WITH BALLOT INITIATIVES AND**
14 **REFERENDA.**

15 (a) IN GENERAL.—Section 319(a)(1)(A) of the Fed-
16 eral Election Campaign Act of 1971 (52 U.S.C.
17 30121(a)(1)(A)) is amended by striking “election” and in-
18 serting the following: “election, including a State or local
19 ballot initiative or referendum”.

20 (b) EFFECTIVE DATE.—The amendment made by
21 this section shall apply with respect to elections held in
22 2020 or any succeeding year.

1 **TITLE IV—PROHIBITING PAY-**
2 **MENT OF ELECTION ASSIST-**
3 **ANCE FUNDS TO STATES AL-**
4 **LOWING BALLOT HAR-**
5 **VESTING**

6 **SEC. 401. PROHIBITION ON PAYMENTS TO STATES ALLOW-**
7 **ING COLLECTION AND TRANSMISSION OF**
8 **BALLOTS BY CERTAIN THIRD PARTIES.**

9 (a) IN GENERAL.—Subtitle D of title II of the Help
10 America Vote Act of 2002 (52 U.S.C. 21001 et seq.) is
11 amended by adding at the end the following new part:

12 **“PART 7—PROHIBITION ON PAYMENTS TO**
13 **STATES ALLOWING COLLECTION AND**
14 **TRANSMISSION OF BALLOTS BY CERTAIN**
15 **THIRD PARTIES**

16 **“SEC. 297. ELIGIBILITY FOR PAYMENTS OF STATES ALLOW-**
17 **ING COLLECTION AND TRANSMISSION OF**
18 **BALLOTS BY CERTAIN THIRD PARTIES.**

19 “(a) IN GENERAL.—A State is not eligible to receive
20 funds under this Act unless the State has in effect a law
21 that prohibits an individual from the knowing collection
22 and transmission of a ballot in an election for Federal of-
23 fice that was mailed to another person, other than an indi-
24 vidual described as follows:

1 “(1) An election official while engaged in offi-
2 cial duties as authorized by law.

3 “(2) An employee of the United States Postal
4 Service while engaged in official duties as authorized
5 by law.

6 “(3) Any other individual who is allowed by law
7 to collect and transmit United States mail, while en-
8 gaged in official duties as authorized by law.

9 “(4) A family member, household member, or
10 caregiver of the person to whom the ballot was
11 mailed.

12 “(b) DEFINITIONS.—For purposes of this section,
13 with respect to a person to whom the ballot was mailed:

14 “(1) The term ‘caregiver’ means an individual
15 who provides medical or health care assistance to
16 such person in a residence, nursing care institution,
17 hospice facility, assisted living center, assisted living
18 facility, assisted living home, residential care institu-
19 tion, adult day health care facility, or adult foster
20 care home.

21 “(2) The term ‘family member’ means an indi-
22 vidual who is related to such person by blood, mar-
23 riage, adoption or legal guardianship.

1 “(3) The term ‘household member’ means an
2 individual who resides at the same residence as such
3 person.”.

4 (b) CLERICAL AMENDMENT.—The table of contents
5 of such Act is amended by inserting after the item relating
6 to section 296 the following new item:

“PART 7—PROHIBITION ON PAYMENTS TO STATES ALLOWING COLLECTION
AND TRANSMISSION OF BALLOTS BY CERTAIN THIRD PARTIES

“Sec. 297. Eligibility for payments of States allowing collection and trans-
mission of ballots by certain third parties.”.

7 **TITLE V—PROHIBITING PAY-**
8 **MENT OF ELECTION ASSIST-**
9 **ANCE FUNDS TO STATES AL-**
10 **LOWING VOTING BY NON-CITI-**
11 **ZENS**

12 **SEC. 501. PROHIBITION ON PAYMENTS TO STATES ALLOW-**
13 **ING VOTING BY NON-CITIZENS.**

14 (a) IN GENERAL.—Subtitle D of title II of the Help
15 America Vote Act of 2002 (52 U.S.C. 21001 et seq.), as
16 amended by section 401, is further amended by adding
17 at the end the following new part:

18 **“PART 8—PROHIBITION ON PAYMENTS TO**
19 **STATES ALLOWING VOTING BY NON-CITIZENS**
20 **“SEC. 298. ELIGIBILITY FOR PAYMENTS OF STATES ALLOW-**
21 **ING VOTING BY NON-CITIZENS.**

22 “A State is not eligible to receive funds under this
23 Act if the State allows an individual who is not a citizen

1 of the United States to vote in an election for public of-
2 fice.”.

3 (b) CLERICAL AMENDMENT.—The table of contents
4 for such Act, as amended by section 401, is further
5 amended by inserting after the item relating to section
6 297 the following new item:

“PART 8—PROHIBITION ON PAYMENTS TO STATES ALLOWING VOTING BY
NON-CITIZENS

“Sec. 298. Eligibility for payments of States allowing voting by non-citizens.”.

