

115TH CONGRESS
2D SESSION

H. R. 7145

To prohibit certain large business entities from purchasing the securities of those entities on national securities exchanges, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 16, 2018

Mr. KHANNA (for himself, Ms. GABBARD, Ms. CLARKE of New York, Ms. SCHAKOWSKY, and Mr. RASKIN) introduced the following bill; which was referred to the Committee on Financial Services, and in addition to the Committee on Education and the Workforce, 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 prohibit certain large business entities from purchasing the securities of those entities on national securities exchanges, 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 Welfare for Any
5 Large Monopoly Amassing Revenue from Taxpayers Act
6 of 2018”.

1 **SEC. 2. PROHIBITION.**

2 (a) IN GENERAL.—A large employer that commits a
3 violation described in subsection (b) may not purchase a
4 security of the large employer on a national securities ex-
5 change during the fiscal year in which the large employer
6 commits that violation.

7 (b) VIOLATIONS DESCRIBED.—A violation described
8 in this subsection is, with respect to a large employer, any
9 of the following:

10 (1) The large employer pays an employee of the
11 large employer wages, as such term is defined for
12 purposes of the Fair Labor Standards Act of 1938
13 (29 U.S.C. 201 et seq.) except excluding any amount
14 of cash tips received in the course of employment by
15 an employee, at a rate that is less than \$15 per
16 hour.

17 (2) The large employer interferes with, re-
18 strains, or denies the exercise of, or the attempt to
19 exercise, any right provided under subsection (c).

20 (3) The compensation ratio with respect to the
21 large employer is in an amount that is more than
22 150.

23 (c) EARNED PAID SICK TIME.—

24 (1) EARNING OF PAID SICK TIME.—A large em-
25 ployer—

(A) shall provide each employee employed by the large employer not less than 1 hour of earned paid sick time for every 30 hours worked; and

(B) shall not be required to permit an employee to earn, under this subsection, more than 56 hours of paid sick time in a year, unless the large employer chooses to set a higher limit.

(2) EXEMPT EMPLOYEES.—

(A) IN GENERAL.—Except as provided in paragraph (3), for purposes of this subsection, an employee who is exempt from overtime requirements under section 13(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 213(a)(1)) shall be assumed to work 40 hours in each workweek.

(B) SHORTER NORMAL WORKWEEK.—If the normal workweek of an employee described in subparagraph (A) is less than 40 hours, the employee shall earn paid sick time based upon that normal workweek.

(3) DATES FOR BEGINNING TO EARN PAID SICK TIME AND USE.—

(A) IN GENERAL.—An employee shall begin to earn paid sick time under this sub-

1 section at the commencement of the employ-
2 ment of the employee.

3 (B) USE.—An employee—

4 (i) shall be entitled to use paid sick
5 time that the employee has earned begin-
6 ning on the 60th calendar day following
7 commencement of the employment of the
8 employee; and

9 (ii) after the 60th calendar day de-
10 scribed in clause (i), may use the paid sick
11 time of the employee as the time is earned.

12 (C) DISCRETION OF EMPLOYER.—A large
13 employer may, at the discretion of the large em-
14 ployer—

15 (i) loan paid sick time to an employee
16 for use by such employee in advance of the
17 employee earning such sick time as pro-
18 vided in this subsection; and

19 (ii) permit the use of paid sick time
20 by an employee before the 60th day of em-
21 ployment of the employee.

22 (4) CARRYOVER.—

23 (A) IN GENERAL.—Except as provided in
24 subparagraph (B), paid sick time earned under

1 this subsection shall carry over from one year
2 to the next.

3 (B) CONSTRUCTION.—This subsection
4 shall not be construed to require a large em-
5 ployer to permit an employee to earn more than
6 56 hours of earned paid sick time at a given
7 time.

8 (5) LARGE EMPLOYERS WITH EXISTING POLI-
9 CIES.—Any large employer with a paid leave policy
10 that makes available an amount of paid leave that
11 is sufficient to meet the requirements of this sub-
12 section and that may be used for the same purposes
13 and under the same conditions as the purposes and
14 conditions described in section 3(13) shall not be re-
15 quired to permit an employee to earn additional paid
16 sick time under this subsection.

17 (6) CONSTRUCTION.—Nothing in this sub-
18 section shall be construed as requiring financial or
19 other reimbursement to an employee from a large
20 employer upon the employee's termination, resigna-
21 tion, retirement, or other separation from employ-
22 ment for earned paid sick time that has not been
23 used.

24 (7) REINSTATEMENT.—If an employee is sepa-
25 rated from employment with a large employer and,

1 not later than 1 year after the date on which the
2 employee is separated, is rehired by the same large
3 employer—

4 (A) the large employer shall reinstate the
5 previously earned paid sick time of the em-
6 ployee; and

7 (B) the employee shall be entitled to use
8 the earned paid sick time and earn additional
9 paid sick time at the recommencement of em-
10 ployment with the large employer.

11 (8) PROHIBITION.—A large employer may not
12 require, as a condition of providing paid sick time
13 under this subsection, that the employee involved
14 search for or find a replacement employee to cover
15 the hours during which the employee is using paid
16 sick time.

17 (d) ENFORCEMENT.—

18 (1) IN GENERAL.—With respect to a large em-
19 ployer that makes a purchase that violates sub-
20 section (a)—

21 (A) the Commission may impose a civil
22 penalty on the large employer in an amount
23 that is equal to the amount paid by the large
24 employer to make that purchase; and

(B) an individual who is an executive officer of the large employer on the date on which that purchase is made may not serve as an executive officer of the large employer, any successor of the large employer, or any affiliate of the large employer—

(i) if the purchase is the first instance in which the large employer has violated subsection (a), during the 1-year period beginning on the date on which that purchase is made; and

(ii) if the purchase is not the first instance in which the large employer has violated subsection (a), at any time after the date on which that purchase is made.

(2) REGULATIONS.—Not later than 90 days after the date of enactment of this Act, the Commission shall promulgate regulations that instruct national securities exchanges and large employers regarding how those entities shall comply with the requirements of this Act.

SEC. 3. DEFINITIONS.

In this Act:

(1) AFFILIATE.—The term “affiliate” means, with respect to a large employer—

1 (A) any incorporated or unincorporated
2 business association or trust that controls the
3 large employer;

4 (B) any incorporated or unincorporated
5 business association or trust that is controlled
6 by an entity described in subparagraph (A); and

7 (C) any incorporated or unincorporated
8 business association or trust that is controlled
9 by the large employer.

10 (2) CHILD.—The term “child” means a biologi-
11 cal, foster, or adopted child, a stepchild, a child of
12 a domestic partner, a legal ward, or a child of a per-
13 son standing in loco parentis, who is—

14 (A) younger than 18 years of age; or

15 (B) not younger than 18 years of age and
16 incapable of self-care because of a mental or
17 physical disability.

18 (3) COMMISSION.—The term “Commission”
19 means the Securities and Exchange Commission.

20 (4) COMMITTED RELATIONSHIP.—The term
21 “committed relationship”—

22 (A) means a relationship between 2 indi-
23 viduals, each of whom is not younger than 18
24 years of age, in which—

1 (i) each individual is the sole domestic
2 partner of the other individual; and

3 (ii) both individuals share responsi-
4 bility for a significant measure of each oth-
5 er's common welfare; and

6 (B) includes any relationship described in
7 subparagraph (A) between 2 individuals, includ-
8 ing individuals of the same sex, that is granted
9 legal recognition by a State, or a political sub-
10 division of a State, as a marriage or analogous
11 relationship, including a civil union or domestic
12 partnership.

13 (5) COMPENSATION RATIO.—The term “com-
14 pensation ratio” means, with respect to a large em-
15 ployer in a fiscal year, the quotient obtained by di-
16 viding, for that fiscal year—

17 (A) as submitted by the large employer
18 under section 229.402(c) of title 17, Code of
19 Federal Regulations, or any successor regula-
20 tion, the greater of the compensation of—

21 (i) the chief executive officer of the
22 large employer; or

23 (ii) the most highly compensated em-
24 ployee of the large employer; by

1 (B) the median of all wages (not including
2 any amount of cash tips received in the course
3 of employment by an employee), paid to all em-
4 ployees of the large employer who are employed
5 in the United States.

6 (6) DATING VIOLENCE.—The term “dating vio-
7 lence” has the meaning given the term in section
8 40002(a) of the Violence Against Women Act of
9 1994 (34 U.S.C. 12291(a)).

10 (7) DOMESTIC PARTNER.—The term “domestic
11 partner” means, with respect to an individual, an-
12 other individual with whom the individual is in a
13 committed relationship.

14 (8) DOMESTIC VIOLENCE.—The term “domestic
15 violence”—

16 (A) has the meaning given the term in sec-
17 tion 40002(a) of the Violence Against Women
18 Act of 1994 (34 U.S.C. 12291(a)), except that
19 the reference in that section to the term “juris-
20 diction receiving grant monies” shall be deemed
21 to mean the jurisdiction in which the victim
22 lives or the jurisdiction in which the employer
23 involved is located; and

24 (B) includes dating violence.

1 (9) EMPLOYEE.—The term “employee”
2 means—

3 (A) any full-time or part-time employee;

4 (B) any individual who is a full-time or
5 part-time independent contractor (including any
6 employee of that independent contractor) and
7 provides services to an employer, unless—

8 (i) the individual is free from control
9 and direction in connection with the per-
10 formance of the service, both under the
11 contract for the performance of service and
12 in fact;

13 (ii) the service is performed outside
14 the usual course of the business of the em-
15 ployer; and

16 (iii) the individual is customarily en-
17 gaged in an independently established
18 trade, occupation, profession, or business
19 of the same nature as that involved in the
20 service performed; and

21 (C) any individual who is a full-time or
22 part-time joint employee, provided that the em-
23 ployer possesses, reserves, or exercises sufficient
24 direct or indirect control over the essential

1 terms and conditions of employment of the em-
2 ployee.

3 (10) EXECUTIVE OFFICER.—The term “execu-
4 tive officer”, with respect to a large employer—

5 (A) means any individual who participates,
6 or has authority to participate (other than in
7 the capacity of a director), in major policy-
8 making functions of the large employer, without
9 regard to whether—

10 (i) the individual has an official title;

11 or

12 (ii) the individual receives a salary or
13 other compensation; and

14 (B) includes the chairman of the board of
15 directors of the large employer, the president of
16 the large employer, each vice president of the
17 large employer, and the chief financial officer of
18 the large employer, unless—

19 (i) a resolution of the board of direc-
20 tors of the large employer or the bylaws of
21 the large employer explicitly exclude that
22 individual from participation (other than in
23 the capacity of a director) in major policy-
24 making functions of the large employer;
25 and

1 (ii) the individual does not participate
2 in major policymaking functions of the
3 large employer.

4 (11) LARGE EMPLOYER.—

5 (A) IN GENERAL.—The term “large em-
6 ployer” means, with respect to a fiscal year, an
7 employer that—

8 (i) employed an average of not fewer
9 than 500 employees on business days dur-
10 ing the preceding fiscal year; and

11 (ii) is subject to part 229 of title 17,
12 Code of Federal Regulations, or any suc-
13 cessor regulations, for that fiscal year.

14 (B) RULES FOR DETERMINING EMPLOYER
15 SIZE.—For purposes of this paragraph:

16 (i) APPLICATION OF AGGREGATION
17 RULE FOR EMPLOYERS.—All persons treat-
18 ed as a single employer under subsection
19 (b), (c), (m), or (o) of section 414 of the
20 Internal Revenue Code of 1986 shall be
21 treated as 1 employer.

22 (ii) EMPLOYERS NOT IN EXISTENCE
23 IN PRECEDING YEAR.—In the case of an
24 employer that was not in existence
25 throughout the preceding fiscal year, the

1 determination of whether the employer is a
2 large employer shall be based on the aver-
3 age number of employees that the em-
4 ployer is reasonably expected to employ on
5 business days in the current fiscal year.

6 (iii) PREDECESSORS.—Any reference
7 in this paragraph to an employer shall in-
8 clude a reference to any predecessor of the
9 employer.

10 (12) NATIONAL SECURITIES EXCHANGE.—The
11 term “national securities exchange” means an ex-
12 change that is registered as a national securities ex-
13 change under section 6 of the Securities Exchange
14 Act of 1934 (15 U.S.C. 78f).

15 (13) PAID SICK TIME.—The term “paid sick
16 time” means an increment of compensated leave that
17 can be earned by an employee for use during an ab-
18 sence from employment for an absence resulting
19 from—

20 (A) a physical or mental illness, injury, or
21 medical condition of the employee or a related
22 person with respect to the employee;

23 (B) obtaining professional medical diag-
24 nosis or care, or preventive medical care, for the

1 employee or a related person with respect to the
2 employee;

3 (C) caring for—

4 (i) a related person with respect to
5 the employee, who has any of the condi-
6 tions or needs for diagnosis or care de-
7 scribed in subparagraph (A) or (B);

8 (ii) a child, in a situation in which the
9 employee is required to attend—

10 (I) a school meeting; or

11 (II) a meeting at a place where
12 the child is receiving care necessitated
13 by the health condition or disability of
14 the child; or

15 (iii) a related person with respect to
16 the employee, who is otherwise in need of
17 care; or

18 (D) domestic violence, sexual assault, or
19 stalking, if the time is to—

20 (i) seek medical attention for the em-
21 ployee, or a related person with respect to
22 the employee, to recover from physical or
23 psychological injury or disability caused by
24 domestic violence, sexual assault, or stalk-
25 ing;

1 (ii) obtain or assist a related person
2 with respect to the employee in obtaining
3 services from a victim services organiza-
4 tion;

5 (iii) obtain or assist a related person
6 with respect to the employee in obtaining
7 psychological or other counseling;

8 (iv) seek relocation; or

9 (v) take legal action, including pre-
10 paring for or participating in any civil or
11 criminal legal proceeding relating to or re-
12 sulting from domestic violence, sexual as-
13 sault, or stalking.

14 (14) PARENT.—The term “parent” means a bi-
15 ological, foster, or adoptive parent of an employee,
16 a stepparent, parent-in-law, or parent of a domestic
17 partner, of an employee, or a legal guardian or other
18 person who stood in loco parentis to an employee
19 when the employee was a child.

20 (15) RELATED PERSON.—The term “related
21 person” means, with respect to an employee—

22 (A) a child of the employee;

23 (B) a parent of the employee;

24 (C) a spouse of the employee;

25 (D) a domestic partner of the employee; or

1 (E) any other individual related by blood
2 or affinity whose close association with the em-
3 ployee is the equivalent of a family relationship.

4 (16) SECURITY.—The term “security” has the
5 meaning given the term in section 3(a) of the Secu-
6 rities Exchange Act of 1934 (15 U.S.C. 78c(a)).

7 (17) SEXUAL ASSAULT; STALKING.—The terms
8 “sexual assault” and “stalking” have the meanings
9 given the terms in section 40002(a) of the Violence
10 Against Women Act of 1994 (34 U.S.C. 12291(a)).

11 (18) SPOUSE.—The term “spouse”, with re-
12 spect to an employee, has the meaning given the
13 term by the marriage laws of the State in which the
14 marriage was celebrated.

15 (19) STATE.—The term “State” has the mean-
16 ing given the term in section 3 of the Fair Labor
17 Standards Act of 1938 (29 U.S.C. 203).

18 (20) SUCCESSOR.—The term “successor”
19 means, with respect to a person or other incor-
20 porated or unincorporated business association or
21 trust (referred to in this paragraph as a “covered
22 person”), any person, business association, or trust
23 that acquires, through merger, acquisition, or other
24 means, not less than 25 percent of the assets of that
25 covered person.

1 (21) VICTIM SERVICES ORGANIZATION.—The
2 term “victim services organization”—

3 (A) means a nonprofit, nongovernmental
4 organization that—

5 (i) provides assistance to a victim of
6 domestic violence, sexual assault, or stalk-
7 ing; or

8 (ii) advocates for a victim described in
9 clause (i); and

10 (B) includes—

11 (i) a rape crisis center;

12 (ii) an organization carrying out a do-
13 mestic violence, sexual assault, or stalking
14 prevention or treatment program;

15 (iii) an organization operating a shel-
16 ter or providing counseling services; and

17 (iv) a legal services organization or
18 other organization providing assistance
19 through the legal process.

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