

115TH CONGRESS
2D SESSION

S. 3640

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

IN THE SENATE OF THE UNITED STATES

NOVEMBER 15, 2018

Mr. SANDERS introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

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”.

7 **SEC. 2. PROHIBITION.**

8 (a) IN GENERAL.—A large employer that commits a
9 violation described in subsection (b) may not purchase a
10 security of the large employer on a national securities ex-

1 change during the fiscal year in which the large employer
2 commits that violation.

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

6 (1) The large employer pays an employee of the
7 large employer wages, as such term is defined for
8 purposes of the Fair Labor Standards Act of 1938
9 (29 U.S.C. 201 et seq.) except excluding any amount
10 of cash tips received in the course of employment by
11 an employee, at a rate that is less than \$15 per
12 hour.

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

16 (3) The compensation ratio with respect to the
17 large employer is in an amount that is more than
18 150.

19 (c) EARNED PAID SICK TIME.—

20 (1) EARNING OF PAID SICK TIME.—A large em-
21 ployer—

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

1 (B) shall not be required to permit an em-
 2 ployee to earn, under this subsection, more than
 3 56 hours of paid sick time in a year, unless the
 4 large employer chooses to set a higher limit.

5 (2) EXEMPT EMPLOYEES.—

6 (A) IN GENERAL.—Except as provided in
 7 paragraph (3), for purposes of this subsection,
 8 an employee who is exempt from overtime re-
 9 quirements under section 13(a)(1) of the Fair
 10 Labor Standards Act of 1938 (29 U.S.C.
 11 213(a)(1)) shall be assumed to work 40 hours
 12 in each workweek.

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

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

20 (A) IN GENERAL.—An employee shall
 21 begin to earn paid sick time under this sub-
 22 section at the commencement of the employ-
 23 ment of the employee.

24 (B) USE.—An employee—

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

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

9 (C) DISCRETION OF EMPLOYER.—A large
10 employer may, at the discretion of the large em-
11 ployer—

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

16 (ii) permit the use of paid sick time
17 by an employee before the 60th day of em-
18 ployment of the employee.

19 (4) CARRYOVER.—

20 (A) IN GENERAL.—Except as provided in
21 subparagraph (B), paid sick time earned under
22 this subsection shall carry over from one year
23 to the next.

24 (B) CONSTRUCTION.—This subsection
25 shall not be construed to require a large em-

1 employer to permit an employee to earn more than
2 56 hours of earned paid sick time at a given
3 time.

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

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

20 (7) REINSTATEMENT.—If an employee is sepa-
21 rated from employment with a large employer and,
22 not later than 1 year after the date on which the
23 employee is separated, is rehired by the same large
24 employer—

1 (A) the large employer shall reinstate the
 2 previously earned paid sick time of the em-
 3 ployee; and

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

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

14 (d) ENFORCEMENT.—

15 (1) IN GENERAL.—With respect to a large em-
 16 ployer that makes a purchase that violates sub-
 17 section (a)—

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

22 (B) an individual who is an executive offi-
 23 cer of the large employer on the date on which
 24 that purchase is made may not serve as an ex-
 25 ecutive officer of the large employer, any suc-

cessor 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—

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

1 (B) any incorporated or unincorporated
2 business association or trust that is controlled
3 by an entity described in subparagraph (A); and

4 (C) any incorporated or unincorporated
5 business association or trust that is controlled
6 by the large employer.

7 (2) CHILD.—The term “child” means a biological,
8 foster, or adopted child, a stepchild, a child of
9 a domestic partner, a legal ward, or a child of a person
10 standing in loco parentis, who is—

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

12 (B) not younger than 18 years of age and
13 incapable of self-care because of a mental or
14 physical disability.

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

17 (4) COMMITTED RELATIONSHIP.—The term
18 “committed relationship”—

19 (A) means a relationship between 2 individuals,
20 each of whom is not younger than 18
21 years of age, in which—

22 (i) each individual is the sole domestic
23 partner of the other individual; and

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

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

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

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

19 (i) the chief executive officer of the
 20 large employer; or

21 (ii) the most highly compensated em-
 22 ployee of the large employer; by

23 (B) the median of all wages (not including
 24 any amount of cash tips received in the course
 25 of employment by an employee), paid to all em-

1 employees of the large employer who are employed
2 in the United States.

3 (6) DATING VIOLENCE.—The term “dating vio-
4 lence” has the meaning given the term in section
5 40002(a) of the Violence Against Women Act of
6 1994 (34 U.S.C. 12291(a)).

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

11 (8) DOMESTIC VIOLENCE.—The term “domestic
12 violence”—

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

21 (B) includes dating violence.

22 (9) EMPLOYEE.—The term “employee”
23 means—

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

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

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

10 (ii) the service is performed outside
11 the usual course of the business of the em-
12 ployer; and

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

18 (C) any individual who is a full-time or
19 part-time joint employee, provided that the em-
20 ployer possesses, reserves, or exercises sufficient
21 direct or indirect control over the essential
22 terms and conditions of employment of the em-
23 ployee.

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

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

6 (i) the individual has an official title;

7 or

8 (ii) the individual receives a salary or
9 other compensation; and

10 (B) includes the chairman of the board of
11 directors of the large employer, the president of
12 the large employer, each vice president of the
13 large employer, and the chief financial officer of
14 the large employer, unless—

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

22 (ii) the individual does not participate
23 in major policymaking functions of the
24 large employer.

25 (11) LARGE EMPLOYER.—

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

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

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

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

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

18 (ii) EMPLOYERS NOT IN EXISTENCE
19 IN PRECEDING YEAR.—In the case of an
20 employer that was not in existence
21 throughout the preceding fiscal year, the
22 determination of whether the employer is a
23 large employer shall be based on the aver-
24 age number of employees that the em-

1 ployer is reasonably expected to employ on
2 business days in the current fiscal year.

3 (iii) PREDECESSORS.—Any reference
4 in this paragraph to an employer shall in-
5 clude a reference to any predecessor of the
6 employer.

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

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

17 (A) a physical or mental illness, injury, or
18 medical condition of the employee or a related
19 person with respect to the employee;

20 (B) obtaining professional medical diag-
21 nosis or care, or preventive medical care, for the
22 employee or a related person with respect to the
23 employee;

24 (C) caring for—

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

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

7 (I) a school meeting; or

8 (II) a meeting at a place where
9 the child is receiving care necessitated
10 by the health condition or disability of
11 the child; or

12 (iii) a related person with respect to
13 the employee, who is otherwise in need of
14 care; or

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

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

23 (ii) obtain or assist a related person
24 with respect to the employee in obtaining

1 services from a victim services organiza-
2 tion;

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

6 (iv) seek relocation; or

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

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

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

20 (A) a child of the employee;

21 (B) a parent of the employee;

22 (C) a spouse of the employee;

23 (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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