

116TH CONGRESS
1ST SESSION

H. R. 2101

To provide for restrictions on recently appointed Federal employees and recently separated Federal employees with respect to lobbying activities, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 4, 2019

Mr. HUFFMAN (for himself and Ms. NORTON) introduced the following bill;
which was referred to the Committee on the Judiciary

A BILL

To provide for restrictions on recently appointed Federal employees and recently separated Federal employees with respect to lobbying activities, 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. EXTENSION OF POST-EMPLOYMENT BAN ON**
4 **LOBBYING FOR CERTAIN FORMER GOVERN-**
5 **MENT EMPLOYEES.**

6 (a) IN GENERAL.—Section 207 of title 18, United
7 States Code, is amended in subsection (c)—

8 (1) in the subsection heading, by striking
9 “ONE-YEAR” and inserting “TWO-YEAR”;

1 (2) in paragraph (1)—

2 (A) by striking “within 1 year after” and
3 inserting “within 2 years after”; and

4 (B) by striking “within 1 year before such
5 termination”; and

6 (3) in paragraph (2), by adding at the end the
7 following:

8 “(D) Not later than 30 days after a waiver is
9 granted under subparagraph (C), the waiver shall be
10 published in the Federal Register and accompanied
11 by a signed statement by the Director of the Office
12 of Government Ethics describing in detail the rea-
13 sons for providing such waiver unless such a descrip-
14 tion would compromise national security.”.

15 (b) APPLICATION.—The amendment made by sub-
16 section (a) shall apply to any individual appointed to a
17 position described in paragraph (2) of subsection (c) of
18 section 207 of title 18, United States Code, (as amended
19 by such subsection) after the date of the enactment of this
20 Act.

21 **SEC. 2. FIVE-YEAR LOBBYING BAN FOR CERTAIN POLIT-**
22 **ICAL APPOINTEES.**

23 (a) IN GENERAL.—Section 207 of title 18, United
24 States Code, as amended by section 1, is further amended
25 in subsection (d)—

1 (1) in paragraph (1), in the matter following
2 subparagraph (C), by striking “within 2 years” and
3 inserting “within 5 years”; and

4 (2) in paragraph (2)(A), by striking “in such
5 position” and all that follows through “terminated”.

6 (b) APPLICATION.—The amendment made by sub-
7 section (a) shall apply to any individual appointed to a
8 position described in subparagraph (A), (B), or (C) of sub-
9 section (d)(1) of section 207 of title 18, United States
10 Code, (as amended by such subsection) after the date of
11 the enactment of this Act.

12 **SEC. 3. LIFETIME BAN ON REPRESENTATION OF FOREIGN**
13 **ENTITIES FOR CERTAIN HIGH-LEVEL**
14 **FORMER EMPLOYEES.**

15 (a) IN GENERAL.—Section 207 of title 18, United
16 States Code, as amended by sections 1 and 2, is further
17 amended in subsection (f)—

18 (1) in paragraph (1), by inserting “(or, in the
19 case of an individual described in paragraph (2), at
20 any time)” after “within 1 year”;

21 (2) in paragraph (2), by striking “paragraph
22 (1)” and inserting “paragraphs (1) and (2)”;

23 (3) by redesignating paragraphs (2) and (3) as
24 paragraphs (3) and (4); and

1 (4) by inserting after paragraph (1) the fol-
2 lowing new paragraph:

3 “(2) DESCRIPTION OF INDIVIDUALS SUBJECT
4 TO LIFETIME BAN.—An individual described in this
5 paragraph is any individual who was—

6 “(A) employed in a position described
7 under sections 5312 through 5316 of title 5,
8 United States Code (relating to the Executive
9 Schedule);

10 “(B) a limited term appointee, limited
11 emergency appointee, or noncareer appointee in
12 the Senior Executive Service, as defined under
13 paragraphs (5), (6), and (7), respectively, of
14 section 3132(a) of title 5, United States Code;
15 or

16 “(C) employed in a position of a confiden-
17 tial or policy-determining character under
18 schedule C of subpart C of part 213 of title 5
19 of the Code of Federal Regulations.”.

20 (b) APPLICATION.—The amendment made by sub-
21 section (a) shall apply to any individual appointed to a
22 position described in paragraph (2) of section 207 of title
23 18, United States Code, (as added by such subsection)
24 after the date of the enactment of this Act.

1 **SEC. 4. PROHIBITION ON PARTICIPATION IN MATTER RE-**
2 **LATING TO PREVIOUS EMPLOYMENT.**

3 (a) IN GENERAL.—Chapter 11 of title 18, United
4 States Code, is amended by inserting after section 219 the
5 following:

6 **“§ 220. Prohibition on participation in matter relat-**
7 **ing to previous employment**

8 “(a) During the 2-year period beginning on the date
9 an individual is appointed to a covered position at an agen-
10 cy, any such individual who has not received a waiver
11 under subsection (b)—

12 “(1) who participates in any particular matter
13 involving specific parties that is directly and sub-
14 stantially related to the individual’s former employer
15 or former clients, or

16 “(2) with respect to any such individual who
17 was a registered lobbyist under the Lobbying Disclo-
18 sure Act of 1995, or who was not a registered lob-
19 byist under such Act but who engaged in lobbying
20 activity as defined in subsection (c), during the 2-
21 year period preceding the date of such appointment,
22 who—

23 “(A) participates in any particular matter
24 on which the individual made a lobbying contact
25 (in the case of a registered lobbyist under such

1 Act), or engaged in such activity, during such
2 2-year period,

3 “(B) participates in the specific issue area
4 in which such particular matter falls, or

5 “(C) seeks or accepts employment with any
6 agency with respect to which the individual
7 made a lobbying contact (in the case of a reg-
8 istered lobbyist under such Act), or engaged in
9 such activity, during such 2-year period,

10 shall be punished as provided in section 216 of this
11 title.

12 “(b)(1) The Director of the Office of Management
13 and Budget, in consultation with the Counsel to the Presi-
14 dent, may waive the requirements of subsection (a) with
15 respect to any individual covered by such subsection if the
16 Director certifies, in writing, to the Committee on Over-
17 sight and Reform of the House of Representatives, the
18 Committee on Homeland Security and Governmental Af-
19 fairs of the Senate, and the appropriate congressional
20 committees of jurisdiction, that it is in the public interest
21 to grant the waiver.

22 “(2) For purposes of carrying out paragraph (1)—

23 “(A) the public interest includes exigent cir-
24 cumstances relating to public health, public safety,
25 or national security;

1 “(B) de minimis contact with an agency shall
2 be cause for a waiver of subsection (a)(2); and

3 “(C) any waiver shall take effect when the cer-
4 tification is published in the Federal Register, ac-
5 companyed by a signed statement by the Director de-
6 scribing in detail the reasons for providing the waiv-
7 er unless such a description would compromise na-
8 tional security.

9 “(c)(1) In this section, the term ‘lobbying activity’
10 means, with respect to an individual, knowingly making,
11 with the intent to influence, any communication to or ap-
12 pearance before any officer or employee of the Federal
13 Government on behalf of another person as an employee
14 of a lobbying firm or lobbying organization, in connection
15 with any matter on which such person seeks official action
16 by such officer or employee of the Federal Government.
17 The previous sentence applies only with respect to an indi-
18 vidual who spends greater than 20 percent of the individ-
19 ual’s time as an employee of a lobbying firm or lobbying
20 organization engaged in such lobbying activity.

21 “(2) In paragraph (1), the term ‘lobbying firm’
22 means any firm, corporation, or limited liability company
23 in which—

1 “(A) employees of the firm in the aggregate
2 make 2 or more lobbying contacts at any time on be-
3 half of a particular client; and

4 “(B) the firm receives or expects to receive
5 from a particular client for matters related to lob-
6 bying activities at least the amount specified in sec-
7 tion 4(a)(3)(A) of the Lobbying Disclosure Act of
8 1995 (2 U.S.C. 1603(a)(3)(A)) in the quarterly pe-
9 riod during which registration would be made under
10 such Act.

11 “(3) In paragraph (1), the term ‘lobbying organiza-
12 tion’ includes any organization in which—

13 “(A) employees of the firm in the aggregate
14 make 2 or more lobbying contacts at any time on its
15 behalf; and

16 “(B) the organization expends in connection
17 with lobbying activities at least the amount specified
18 in section 4(a)(3)(B) of the Lobbying Disclosure Act
19 of 1995 (2 U.S.C. 1603(a)(3)(A)) in the quarterly
20 period during which registration would be made
21 under such Act.

22 “(4) In this subsection, the term ‘employee’ has the
23 meaning given such term in section 3(5) of the Lobbying
24 Disclosure Act of 1995 (2 U.S.C. 1602(5)).

25 “(d) In this section, the following definitions apply:

1 “(1) The term ‘agency’ means an ‘Executive
2 agency’ (as that term is defined in section 105 of
3 title 5), the Executive Office of the President, the
4 United States Postal Service, and the Postal Regu-
5 latory Commission, but does not include the Govern-
6 ment Accountability Office.

7 “(2) The term ‘covered position’—

8 “(A) means any—

9 “(i) full-time, non-career position
10 which requires appointment by the Presi-
11 dent or Vice President;

12 “(ii) non-career position within the
13 Senior Executive Service or other SES-
14 type system; or

15 “(iii) position that has been excepted
16 from the competitive service by reason of
17 being of a confidential or policymaking
18 character, including positions under sched-
19 ule C of subpart C of part 213 of title 5
20 of the Code of Federal Regulations; and

21 “(B) does not include any individual ap-
22 pointed as a member of the Senior Foreign
23 Service or solely as a uniformed service commis-
24 sioned officer.

1 “(3) The term ‘directly and substantially re-
2 lated to former employer or former clients’ means
3 matters in which the individual’s former employer or
4 a former client is a party or represents a party.

5 “(4) The term ‘former client’ means any person
6 for whom the individual served personally as agent,
7 attorney, or consultant, but does include instances
8 where the service provided was limited to a speech
9 or similar appearance or clients of the individual’s
10 former employer to whom the individual did not per-
11 sonally provide services.

12 “(5) The term ‘former employer’ means any
13 person for whom the individual has within the 2
14 years prior to the date of appointment served as an
15 employee, officer, director, trustee, or general part-
16 ner, but does not include any agency or other entity
17 of the Federal Government, Native American tribe,
18 or any United States territory or possession.

19 “(6) The term ‘lobbying contact’ has the mean-
20 ing given such term in section 3(8) of the Lobbying
21 Disclosure Act of 1995 (2 U.S.C. 1602(8)).

22 “(7) The term ‘particular matter’ has the
23 meaning given that term in section 207 and section
24 2635.402(b)(3) of title 5, Code of Federal Regula-
25 tions, or any successor regulation.

1 “(8) The term ‘participate’ means to participate
2 personally and substantially.

3 “(9) The term ‘particular matter involving spe-
4 cific parties’ has the meaning as set forth in section
5 2641.201(h) of title 5, Code of Federal Regulations,
6 or any successor regulation, except that it shall also
7 include any meeting or other communication relating
8 to the performance of an individual’s official duties
9 with a former employer or former client, unless the
10 communication applies to a particular matter of gen-
11 eral applicability and participation in the meeting or
12 other event is open to all interested parties.”.

13 (b) CLERICAL AMENDMENT.—The table of sections
14 of chapter 11 of title 18, United States Code, is amended
15 by inserting after the item relating to section 219 the fol-
16 lowing new item:

“220. Prohibition on participation in matter relating to previous employment.”.

17 (c) APPLICATION.—The amendments made by sub-
18 section (a) shall apply to any individual appointed to a
19 covered position (as that term is defined in section
20 220(d)(2) of title 18, United States Code, as added by
21 such subsection) after the date of the enactment of this
22 Act.

1 **SEC. 5. REQUIRING LOBBYING DISCLOSURE REPORTS TO**
2 **INCLUDE NAMES OF OFFICIALS CONTACTED.**

3 (a) REQUIREMENT.—Section 5(b)(2) of the Lobbying
4 Disclosure Act of 1995 (2 U.S.C. 1604(b)(2)) is amend-
5 ed—

6 (1) by striking “and” at the end of subpara-
7 graph (C);

8 (2) by adding “and” at the end of subpara-
9 graph (D); and

10 (3) by adding at the end the following new sub-
11 paragraph:

12 “(E) a list of each covered executive
13 branch official with respect to whom the lob-
14 byist made a lobbying contact;”.

15 (b) APPLICATION.—The amendment made by sub-
16 section (a) shall apply with respect to reports filed under
17 section 5 of the Lobbying Disclosure Act of 1995 (2
18 U.S.C. 1604) for quarters beginning on or after the date
19 of the enactment of this Act.

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