AMENDMENT TO RULES COMMITTEE PRINT 118-10

OFFERED BY MS. TLAIB OF MICHIGAN

At the appropriate place in subtitle C of title XVIII, insert the following:

SEC. 1111. ESPIONAGE ACT REFORM.

(a) GATHERING, TRANSMITTING, OR LOSING DEFENSE INFORMATION.—Section 793 of title 18, United States Code, is amended—

(1) in subsection (a), by striking “with intent or reason to believe” and inserting “with specific intent”;

(2) in subsection (b)—

(A) by striking “or reason to believe”;

(B) by inserting “that has been properly classified that is” after “of anything”; and

(C) by striking “Whoever” and inserting “An individual who, while a covered person”;

(3) in subsection (c)—

(A) by inserting “that has been properly classified that is” after “of anything”; and

(B) by striking “Whoever” and inserting “A foreign agent who”;

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(4) in subsection (d), by inserting after "willfully" each place it appears the following: ", and with specific intent to injure the United States or advantage any foreign nation,"; and

(5) in subsection (e)—

(A) by inserting after "willfully" each place it appears the following: ", and with specific intent to injure the United States or advantage any foreign nation,"; and

(B) by striking "Whoever" and inserting "An individual who, while a covered person,";

(6) by adding at the end the following:

“(i) DEFINITIONS.—In this section:

“(1) COVERED PERSON.—The term ‘covered person’ means an individual who—

“(A) receives official access to classified information granted by the United States Government;

“(B) signs a nondisclosure agreement with regard to such classified information; and

“(C) is authorized to receive documents, writings, code books, signal books, sketches, photographs, photographic negatives, blue prints, plans, maps, models, instruments, appli-
ances, or notes of anything connected with the national defense by—

“(i) the President; or

“(ii) the head of a department or agency of the United States Government which is expressly designated by the President to engage in activities relating to the national defense.

“(2) FOREIGN AGENT.—The term ‘foreign agent’—

“(A) has the meaning given the term ‘agent of a foreign power’ under section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801); and

“(B) does not include a person who is an agent of a foreign power (as so defined) with respect to a foreign power described in section 101(a)(5) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801(a)(5)).”.

(b) DISCLOSURE OF CLASSIFIED INFORMATION.—Section 798 of title 18, United States Code, is amended—(1) in subsection (a)—

(A) by inserting after “knowingly and willfully” the following: “, and with specific intent
to injure the United States or advantage any
government,”; and
(B) by striking “Whoever” and inserting
“Any individual who, while a covered person,”;
and
(2) in subsection (b), by adding at the end the
following:
“The term ‘covered person’ means an individual
who—
“(A) receives official access to classified in-
formation granted by the United States Govern-
ment;
“(B) signs a nondisclosure agreement with
regard to such classified information; and
“(C) is authorized to receive documents,
 writings, code books, signal books, sketches,
 photographs, photographic negatives, blue
 prints, plans, maps, models, instruments, appli-
ances, or notes of anything connected with the
national defense by—
“(i) the President; or
“(ii) the head of a department or agen-
cy of the United States Government which
is expressly designated by the President to
engage in activities relating to the national
defense.”.

(c) Testimony of Purpose.—

(1) In general.—Chapter 37 of title 18, United States Code, is amended by adding at the end the following:

“§ 799A. Testimony of purpose

“A defendant charged with an offense under section 793 or 798 shall be permitted to testify about their purpose for engaging in the prohibited conduct.

“§ 799B. Affirmative defense

“It is an affirmative defense to a charge under section 793 or 798 that the defendant engaged in the prohibited conduct for the purpose of disclosing to the public—

“(1) any violation of any law, rule, or regulation; or

“(2) gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety.”.

(2) Clerical amendment.—The table of sections for chapter 37 of title 18, United States Code, is amended by adding at the end the following:

“799A. Testimony of purpose.

“799B. Affirmative defense.”.