

AMENDMENT TO RULES COMMITTEE PRINT 118-

36

OFFERED BY MS. TLAIB OF MICHIGAN

Page 762, insert after line 25 the following (and conform the table of contents accordingly):

1 **SEC. 17_. ESPIONAGE ACT REFORM.**

2 (a) GATHERING, TRANSMITTING, OR LOSING DE-
3 FENSE INFORMATION.—Section 793 of title 18, United
4 States Code, is amended—

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

8 (2) in subsection (b)—

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

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

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

14 (3) in subsection (c)—

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

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

1 (4) in subsection (d), by inserting after “will-
2 fully” each place it appears the following: “, and
3 with specific intent to injure the United States or
4 advantage any foreign nation,”; and

5 (5) in subsection (e)—

6 (A) by inserting after “willfully” each
7 place it appears the following: “, and with spe-
8 cific intent to injure the United States or ad-
9 vantage any foreign nation,”; and

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

12 (6) by adding at the end the following:

13 “(i) DEFINITIONS.—In this section:

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

16 “(A) receives official access to classified in-
17 formation granted by the United States Govern-
18 ment;

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

21 “(C) is authorized to receive documents,
22 writings, code books, signal books, sketches,
23 photographs, photographic negatives, blue
24 prints, plans, maps, models, instruments, appli-

1 ances, or notes of anything connected with the
2 national defense by—

3 “(i) the President; or

4 “(ii) the head of a department or agen-
5 cy of the United States Government which
6 is expressly designated by the President to
7 engage in activities relating to the national
8 defense.

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

11 “(A) has the meaning given the term
12 ‘agent of a foreign power’ under section 101 of
13 the Foreign Intelligence Surveillance Act of
14 1978 (50 U.S.C. 1801); and

15 “(B) does not include a person who is an
16 agent of a foreign power (as so defined) with
17 respect to a foreign power described in section
18 101(a)(5) of the Foreign Intelligence Surveil-
19 lance Act of 1978 (50 U.S.C. 1801(a)(5)).”.”.

20 (b) DISCLOSURE OF CLASSIFIED INFORMATION.—
21 Section 798 of title 18, United States Code, is amended—

22 (1) in subsection (a)—

23 (A) by inserting after “knowingly and will-
24 fully” the following: “, and with specific intent

1 to injure the United States or advantage any
2 foreign nation,”; and

3 (B) by striking “Whoever” and inserting
4 “Any individual who, while a covered person,”;
5 and

6 (2) in subsection (b), by adding at the end the
7 following:

8 “The term ‘covered person’ means an individual
9 who—

10 “(A) receives official access to classified in-
11 formation granted by the United States Govern-
12 ment;

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

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

21 “(i) the President; or

22 “(ii) the head of a department or agen-
23 cy of the United States Government which
24 is expressly designated by the President to

1 engage in activities relating to the national
2 defense.”.

3 (c) TESTIMONY OF PURPOSE.—

4 (1) IN GENERAL.—Chapter 37 of title 18,
5 United States Code, is amended by adding at the
6 end the following:

7 **“§ 799A. Testimony of purpose**

8 “A defendant charged with an offense under section
9 793 or 798 shall be permitted to testify about their pur-
10 pose for engaging in the prohibited conduct.

11 **“§ 799B. Affirmative defense**

12 “It is an affirmative defense to a charge under sec-
13 tion 793 or 798 that the defendant engaged in the prohib-
14 ited conduct for the purpose of disclosing to the public—

15 “(1) any violation of any law, rule, or regula-
16 tion, including any obligation under the Constitu-
17 tion, a treaty or customary international law (includ-
18 ing international human rights law and international
19 humanitarian law); or

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

23 (2) CLERICAL AMENDMENT.—The table of sec-
24 tions for chapter 37 of title 18, United States Code,
25 is amended by adding at the end the following:

“799A. Testimony of purpose.
“799B. Affirmative defense.”.

