

AMENDMENT TO RULES COMMITTEE PRINT

119-33

OFFERED BY MS. TLAIB OF MICHIGAN

Add at the end of subtitle A of title XVII the following:

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)—

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

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

8 (5) in subsection (e)—

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

13 (B) by striking “Whoever” and inserting
14 “An individual who, while a covered person,”;
15 and

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

17 “(i) DEFINITIONS.—In this section:

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

20 “(A) receives official access to classified in-
21 formation granted by the United States Govern-
22 ment;

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

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

7 “(i) the President; or

8 “(ii) the head of a department or agen-
9 cy of the United States Government which
10 is expressly designated by the President to
11 engage in activities relating to the national
12 defense.

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

15 “(A) has the meaning given the term
16 ‘agent of a foreign power’ under section 101 of
17 the Foreign Intelligence Surveillance Act of
18 1978 (50 U.S.C. 1801); and

19 “(B) does not include a person who is an
20 agent of a foreign power (as so defined) with
21 respect to a foreign power described in section
22 101(a)(5) of the Foreign Intelligence Surveil-
23 lance Act of 1978 (50 U.S.C. 1801(a)(5)).”.”.

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

1 (1) in subsection (a)—

2 (A) by inserting after “knowingly and will-
3 fully” the following: “, and with specific intent
4 to injure the United States or advantage any
5 foreign nation,”; and

6 (B) by striking “Whoever” and inserting
7 “Any individual who, while a covered person,”;
8 and

9 (2) in subsection (b), by adding at the end the
10 following:

11 “The term ‘covered person’ means an individual
12 who—

13 “(A) receives official access to classified in-
14 formation granted by the United States Govern-
15 ment;

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

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

24 “(i) the President; or

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

6 (c) TESTIMONY OF PURPOSE.—

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

10 **“§ 799A. Testimony of purpose**

11 “A defendant charged with an offense under section
12 793 or 798 shall be permitted to testify about their pur-
13 pose for engaging in the prohibited conduct.

14 **“§ 799B. Affirmative defense**

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

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

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

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

“799A. Testimony of purpose.

“799B. Affirmative defense.”.

