

HOUSE BILL 1840

By Ragan

AN ACT to amend Tennessee Code Annotated, Title 3;
Title 4; Title 8; Title 48; Title 61 and Title 62,
relative to registration of foreign agents.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 8, Chapter 6, is amended by adding the following new part:

8-6-501. Definitions.

As used in this part:

(1) "Agent of a foreign principal":

(A) Means a person who acts as an agent, representative, employee, or servant, or a person who acts in another capacity at the order, request, or under the direction or control of a foreign principal or of a person whose activities are directly or indirectly supervised, directed, controlled, financed, or subsidized in whole or in part by a foreign principal, and who directly or through another person:

(i) Engages within this state in political activities for or in the interests of such foreign principal;

(ii) Acts within this state as a public relations counsel, publicity agent, information service employee, or political consultant for or in the interest of such foreign principal;

(iii) Within this state solicits, collects, disburses, or dispenses contributions, loans, money, or other things of value for or in the interest of such foreign principal; or

(iv) Within this state represents the interests of such foreign principal before an agency or official of this state or a local government of this state;

(B) Means a person who agrees, consents, assumes, or purports to act as, or who is or holds the person out to be, whether or not pursuant to a contractual relationship, an agent of a foreign principal; and

(C) Does not mean a news or press service or association organized under the laws of the United States or of another state or territory subject to the jurisdiction of the United States, or a newspaper, magazine, periodical, or other publication solely by virtue of bona fide news or journalistic activities, including the solicitation or acceptance of advertisements, subscriptions, or other compensation therefor, so long as it is at least eighty percent (80%) beneficially owned by, and its officers and directors, if any, are, citizens of the United States, and such news or press service or association, newspaper, magazine, periodical, or other publication, is not owned, directed, supervised, controlled, subsidized, or financed, and none of its policies are determined by, a foreign principal or an agent of a foreign principal required to register under this part;

(2) "Country of concern" means the People's Republic of China, the Russian Federation, the Islamic Republic of Iran, the Democratic People's Republic of Korea, the Republic of Cuba, the Venezuelan regime of Nicolás Maduro, the Syrian Arab Republic, or another entity or country so deemed by the governor in consultation with the attorney general and reporter;

(3) "Foreign political party" means an organization or a combination of individuals in a country other than the United States, or a unit or branch thereof,

having for an aim or purpose, or which is engaged in an activity devoted in whole or in part to, the establishment, administration, control, or acquisition of administration or control of a government of a foreign country or a subdivision thereof, or the furtherance or influencing of the political or public interests, policies, or relations of a government of a foreign country or a subdivision thereof;

(4) "Foreign principal" means:

(A) The government of a foreign country or the governing body of a foreign political party;

(B) A person outside of the United States, unless it is established that such person is an individual and a citizen of and domiciled within the United States, or that such person is not an individual and is organized under or created by the laws of the United States or of another state or territory subject to the jurisdiction of the United States and that has its principal place of business located within the United States;

(C) A partnership, association, corporation, organization, or other combination of individuals organized under the laws of or having its principal place of business located in a foreign country; or

(D) A partnership, association, corporation, organization, or other combination of individuals that is at least twenty percent (20%) beneficially owned by a partnership, association, corporation, organization, or other combination of individuals organized under the laws of or having its principal place of business located in a foreign country;

(5) "Government of a foreign country":

(A) Means a person or group of persons exercising sovereign de facto or de jure political jurisdiction over a country other than the United States, or over a part of such country, and includes a subdivision of such group and a group or agency to which such sovereign de facto or de jure authority or functions are directly or indirectly delegated; and

(B) Includes a faction or body of insurgents within a country assuming to exercise governmental authority whether such faction or body of insurgents has or has not been recognized by the United States;

(6) "Information service employee" means a person who is engaged in furnishing, disseminating, or publishing accounts, descriptions, information, or data with respect to political, industrial, employment, economic, social, cultural, or other benefits, advantages, facts, or conditions of a country other than the United States, or of a government of a foreign country, foreign political party, partnership, association, corporation, organization, or other combination of individuals organized under the laws of, or having its principal place of business located in, a foreign country;

(7) "Person" means an individual, partnership, association, corporation, organization, or other combination of individuals;

(8) "Political activities" means an activity that the person engaging in believes will, or that the person intends to, influence an agency or official of this state or a local government of this state, or a section of the public within this state with reference to formulating, adopting, or changing the domestic or foreign policies of the United States or of this state with reference to the political or public interests, policies, or relations of a government of a foreign country or a foreign political party;

(9) "Political consultant" means a person who engages in informing or advising another person with reference to the policies of this state or the political or public interest, policies, or relations of a foreign country or of a foreign political party;

(10) "Prints" means newspapers and periodicals, books, pamphlets, sheet music, visiting cards, address cards, printing proofs, engravings, photographs, pictures, drawings, plans, maps, patterns to be cut out, catalogs, prospectuses, or advertisements; printed, engraved, lithographed, or autographed notices of various kinds; and all impressions or reproductions produced on paper, parchment, cardboard, or other material similar to paper, by means of printing, engraving, lithography, autography, or another easily recognizable mechanical process, with the exception of a copying press, stamps with movable or immovable type, and a typewriter;

(11) "Public relations counsel" means a person who engages directly or indirectly in informing, advising, or in any way representing a principal in a public relations matter pertaining to political or public interests, policies, or relations of such principal;

(12) "Publicity agent" means a person who engages directly or indirectly in the publication or dissemination of oral, visual, graphic, written, or pictorial information or matter of any kind, including publication by means of advertising, books, periodicals, newspapers, lectures, broadcasts, motion pictures, or otherwise;

(13) "Registration statement" means the registration statement required to be filed with the attorney general and reporter under § 8-6-502, and all supplements thereto required to be filed under § 8-6-502, including all documents

and papers required to be filed therewith or amendatory thereof or supplemental thereto, whether attached thereto or incorporated therein by reference; and

(14) "United States" means the several states, the District of Columbia, the territories, the insular possessions, and all other places now or hereafter subject to the civil or military jurisdiction of the United States.

8-6-502. Requirements to register as a foreign agent in this state.

(a) A person shall not act as an agent of a foreign principal from a country of concern unless the person has filed with the attorney general and reporter a true and complete registration statement and supplements thereto as required by this subsection (a) and subsection (b) unless the person is exempt from registration under this part. Except as otherwise provided in this part, every person who becomes an agent of a foreign principal from a country of concern shall, within ten (10) days thereafter, file with the attorney general and reporter, in duplicate, a registration statement under oath on a form promulgated by the attorney general and reporter. The obligation of an agent of a foreign principal from a country of concern to file a registration statement, after the tenth day of becoming such an agent, continues from day to day, and termination of such status does not relieve such agent from the obligation to file a registration statement for the period during which the person was an agent of a foreign principal from a country of concern. The registration statement must include the following, which must be regarded as material for the purposes of this subsection (a):

(1) Registrant's name, principal business address, and all other business addresses in the United States or elsewhere, and all residential addresses, if any;

(2) Status of the registrant, including, if the registrant is:

(A) An individual, the registrant's nationality;

(B) A partnership, the registrant's name and the residential addresses and nationality of each partner, and a true and complete copy of its articles of partnership; and

(C) An association, corporation, organization, or another combination of individuals, the name, residential addresses, and nationality of each director and officer and of each person performing the functions of a director or officer, a true and complete copy of its charter, articles of incorporation, association, constitution, and bylaws, and amendments thereto, a statement of the terms and conditions of every oral agreement relating to its organization, powers, and purposes, and a statement describing its ownership and control;

(3) A comprehensive statement of the nature of the registrant's business, a complete list of the registrant's employees and a statement of the nature of the work of each, the name and address of every foreign principal from a country of concern for whom the registrant is acting, assuming, or purporting to act or has agreed to act, the character of the business or other activities of every such foreign principal from a country of concern, and, if such foreign principal from a country of concern be other than a natural person, a statement of the ownership and control of each, and the extent to which each such foreign principal from a country of concern is supervised, directed, owned, controlled, financed, or subsidized, in whole or in part, by a government of a foreign country or foreign political party, or by another foreign principal from a country of concern;

(4) Copies of each written agreement and the terms and conditions of each oral agreement, including all modifications to such agreements or, where no contract exists, a full statement of all the circumstances, by reason of which the

registrant is an agent of a foreign principal from a country of concern, a comprehensive statement of the nature and method of performance of each such contract, and of the existing and proposed activity or activities engaged in or to be engaged in by the registrant as an agent of a foreign principal from a country of concern for each such foreign principal from a country of concern, including a detailed statement of such activity which is a political activity;

(5) The nature and amount of contributions, income, money, or thing of value that the registrant has received within the preceding one hundred eighty (180) days from each foreign principal from a country of concern, either as compensation or for disbursement or otherwise, and the form and time of each such payment and from whom the payment was received;

(6) A detailed statement of each activity that the registrant is performing, assuming, purporting, or has agreed to perform for himself or another person other than a foreign principal from a country of concern and that requires registration hereunder, including a detailed statement of activity that is a political activity;

(7) If the registrant is an individual, the nationality of each person other than a foreign principal from a country of concern for whom the registrant is acting, assuming, or purporting to act or has agreed to act under such circumstances as require registration hereunder, the extent to which each such person is supervised, directed, owned, controlled, financed, or subsidized, in whole or in part, by a government of a foreign country or foreign political party or by a foreign principal from a country of concern, and the nature and amount of contributions, income, money, or thing of value that the registrant has received during the preceding one hundred eighty (180) days from each such person in

connection with the activities referred to in subdivision (a)(6), either as compensation or for disbursement or otherwise, and the form and time of each such payment and from whom the payment was received;

(8) A detailed statement of the money and other things of value spent or disposed of by the registrant during the preceding one hundred eighty (180) days in furtherance of or in connection with activities that require registration hereunder and that have been undertaken by the registrant either as an agent of a foreign principal from a country of concern or for the registrant or another person or in connection with activities relating to the registrant becoming an agent of such principal from a country of concern, and a detailed statement of contributions of money or other things of value made by the registrant during the preceding one hundred eighty (180) days in connection with an election to a political office or in connection with a primary election, convention, or caucus held to select candidates for political office;

(9) Copies of each written agreement and the terms and conditions of each oral agreement, including all modifications of such agreements, or where no contract exists, a full statement of all the circumstances, by reason of which the registrant is performing, assuming, purporting, or has agreed to perform for the registrant, a foreign principal from a country of concern, or for a person other than a foreign principal from a country of concern activities that require registration hereunder;

(10) Such other statements, information, or documents pertinent to the purposes of this subsection (a) as the attorney general and reporter, having due regard for the national security and the public interest, may from time to time require; and

(11) Such further statements and such further copies of documents as are necessary to make the statements made in the registration statement and supplements thereto, and copies of documents furnished therewith that are true and correct.

(b) Each agent of a foreign principal from a country of concern that has filed a registration statement required by subsection (a) shall, within thirty (30) days after the expiration of each period of six (6) months succeeding such filing, file with the attorney general and reporter a supplement thereto under oath, on a form promulgated by the attorney general and reporter, which must set forth with respect to such preceding six-month period such facts as the attorney general and reporter, having due regard for the national security and the public interest, may deem necessary to make the information required under this section accurate, complete, and current with respect to such period. In connection with the information furnished under subdivisions (a)(3), (4), (6), and (9), the registrant shall give notice to the attorney general and reporter of all changes therein within ten (10) days after such changes occur. If the attorney general and reporter, having due regard for the national security and the public interest, determines that it is necessary to carry out the purposes of this part, the attorney general and reporter may, in a particular case, require supplements to the registration statement to be filed at more frequent intervals with respect to all or particular items of information to be furnished.

(c) The registration statement and supplements thereto must be executed under oath as follows:

- (1) If the registrant is an individual, by the registrant;
- (2) If the registrant is a partnership, by the majority of the members thereof; and

(3) If the registrant is a person other than an individual or a partnership, by a majority of the officers thereof or persons performing the functions of officers or by a majority of the board of directors thereof or persons performing the functions of directors.

(d) The fact that a registration statement or supplement thereto has been filed does not automatically deem that the registrant is in full compliance with this part and the rules promulgated thereunder. Such filing does not indicate that the attorney general and reporter has passed upon the merits of such registration statement or supplement thereto. Such filing does not preclude prosecution, as provided for in this part, for willful failure to file a registration statement or supplement thereto when due or for the willful submission of a false statement of a material fact therein, the willful omission of a material fact required to be stated therein, or the willful omission of a material fact or copy of a material document necessary to make the statements made in a registration statement and supplements thereto, and the copies of documents furnished therewith, true and correct.

(e) If an agent of a foreign principal from a country of concern, required to register under this part, has previously thereto registered with the attorney general and reporter under this part, the attorney general and reporter, in order to eliminate inappropriate duplication, may permit the incorporation by reference in the registration statement or supplements thereto filed hereunder of information or documents previously filed by such agent of a foreign principal from a country of concern under this section.

8-6-503. Retroactive transparency.

A person who acted as an agent of a foreign principal from a country of concern during the period from January 1, 2014, until July 1, 2024, shall file with the attorney

general and reporter a true and complete retroactive registration statement and supplements thereto as required under § 8-6-502.

8-6-504. Exemptions.

The requirements of § 8-6-502 do not apply to the following agents of foreign principals:

(1) A duly accredited diplomatic or consular officer of a foreign government who is so recognized by the United States department of state, while the officer is engaged exclusively in activities that are recognized by the United States department of state as being within the scope of the functions of the officer;

(2) An official of a foreign government, if such government is recognized by the United States, who is not a public relations counsel, publicity agent, information service employee, or a citizen of the United States, whose name and status and the character of whose duties as such official are of public record within the United States department of state, while the official is engaged exclusively in activities that are recognized by the United States department of state as being within the scope of the functions of the official;

(3) A member of the staff of, or a person employed by, a duly accredited diplomatic or consular officer of a foreign government who is so recognized by the United States department of state, other than a public relations counsel, publicity agent, or information service employee, whose name and status and the character of whose duties as such member or employee are of public record within the United States department of state, while said member or employee is engaged exclusively in the performance of activities that are recognized by the

United States department of state as being within the scope of the functions of such member or employee;

(4) A person qualified to practice law in this state, insofar as the person engages or agrees to engage in the legal representation of a disclosed foreign principal from a country of concern before a state court or an agency or department of this state or a local government of this state; provided, that, for the purposes of this part, legal representation does not include attempts to influence or persuade agency or department personnel or officials other than in the course of judicial proceedings, criminal or civil law enforcement inquiries, investigations, or proceedings, or agency or department proceedings required by statute or rule to be conducted on the record.

8-6-505. Filing and labeling of informational materials.

(a) Each person within this state who is an agent of a foreign principal from a country of concern and that is required to register under this act and that transmits or causes to be transmitted in the United States by mail or by other means or instrumentalities of interstate or foreign commerce informational materials for or in the interests of such foreign principal from a country of concern in the form of prints or in a form that is reasonably adapted to being, or which the person believes will be, or that the person intends to be, disseminated or circulated among two (2) or more persons shall, not later than forty-eight (48) hours after the beginning of the transmittal thereof, file with the attorney general and reporter two (2) copies of such materials.

(b) It is unlawful for a person within this state who is an agent of a foreign principal from a country of concern and required to register under this part to transmit or cause to be transmitted in the United States by mail or other means or instrumentalities of interstate or foreign commerce informational materials for or in the interests of such

foreign principal from a country of concern without placing in such informational materials a conspicuous statement that the materials are distributed by the agent on behalf of the foreign principal from a country of concern, and that additional information is on file with the attorney general and reporter. The attorney general and reporter may by rule define what constitutes a conspicuous statement for the purposes of this subsection (b).

(c) The copies of informational materials required to be filed with the attorney general and reporter pursuant to subsection (a) must be available for public inspection in accordance with rules promulgated by the attorney general and reporter.

(d) It is unlawful for a person within this state who is an agent of a foreign principal from a country of concern required to register under this part to transmit, convey, or otherwise furnish to an agency, department, or official of this state or local government of this state for or in the interests of such foreign principal from a country of concern political propaganda or to request from such agency, department, or official for or in the interests of such foreign principal from a country of concern information or advice with respect to a matter pertaining to political or public interests, policies, or relations with a foreign country of concern or a political party from a country of concern, or pertaining to the foreign or domestic policies of the United States or this state unless the propaganda or the request is prefaced or accompanied by a true and accurate statement to the effect that such person is registered as an agent of a foreign principal from a country of concern in accordance with this part.

(e) Whenever an agent of a foreign principal from a country of concern required to register under this part appears before a committee of the general assembly or the governing body of a local government to testify for or in the interests of such foreign principal from a country of concern, the agent shall, at the time of such appearance,

furnish the committee with a copy of the agent's most recent registration statement filed with the attorney general and reporter as an agent of a foreign principal from a country of concern for inclusion in the records of the committee or body as part of the agent's testimony.

8-6-506. Maintenance of books and records.

Each agent of a foreign principal from a country of concern registered under this part shall keep and preserve while an agent of a foreign principal from a country of concern such books of account and other records with respect to all of the agent's activities, the disclosure of which is required under this part, in accordance with such business and accounting practices as the attorney general and reporter, having due regard for the national security and the public interest, may by rule prescribe as necessary or appropriate for the enforcement of this part and shall preserve the same for a period of three (3) years following the termination of such status. Until rules are in effect under this section, each agent of a foreign principal from a country of concern shall keep books of account and shall preserve all written records with respect to the agent's activities. Such books and records must be open at all reasonable times for inspection by an official charged with the enforcement of this part. It is unlawful for a person willfully to conceal, destroy, obliterate, mutilate, or falsify, or to attempt to conceal, destroy, obliterate, mutilate, or falsify, or to cause to be concealed, destroyed, obliterated, mutilated, or falsified, books or records required to be kept under this part.

8-6-507. Public transparency and examination of official records.

(a) The attorney general and reporter shall retain in permanent form one (1) copy of all registration statements furnished under this part, and the same must be public records and open to public examination and inspection at such reasonable hours in accordance with rules promulgated by the attorney general and reporter, and copies

of the same must be furnished to each person who makes such a request for a reasonable fee as promulgated by the attorney general and reporter by rule.

(b) The attorney general and reporter shall, promptly upon receipt of a registration statement, transmit one (1) copy filed hereunder and one (1) copy of each amendment or supplement thereto filed hereunder, to the United States secretary of state for such comment and use as the United States secretary of state may determine to be appropriate for foreign relations of the United States. Failure of the attorney general and reporter to transmit such copies is not a bar to prosecution under this part.

(c) The attorney general and reporter may furnish to departments and agencies in the executive branch and committees of the general assembly such information obtained by the attorney general and reporter in the administration of this part, including the names of registrants under this part, copies of registration statements, or parts thereof, or other documents or information filed under this part.

(d) The attorney general and reporter shall every six (6) months report to the general assembly concerning the administration of this part, including registrations filed pursuant to this part, and the nature, sources, and content of political propaganda disseminated and distributed.

(e) The attorney general and reporter shall every month post on a website maintained by the attorney general and reporter concerning the administration of this part, including registrations filed pursuant to this part, and the nature, sources, and content of political propaganda disseminated and distributed.

8-6-508. Liability of officers.

Each officer, or person performing the functions of an officer, and each director, or person performing the functions of a director, of an agent of a foreign principal from a country of concern that is not an individual shall execute and file a registration statement

and supplements thereto as and when such filing is required under subsections (a) and (b) of § 8-6-502 and shall also comply with all the requirements of this part. Dissolution of an organization acting as an agent of a foreign principal from a country of concern does not permit an officer, or person performing the functions of an officer, or a director, or person performing the functions of a director, from complying with the provisions of this part. In case of failure of such agent of a foreign principal from a country of concern to comply with the requirements of this part, each of its officers, or persons performing the functions of officers, and each of its directors, or persons performing the functions of directors, are subject to prosecution therefor.

8-6-509. Enforcement and penalties.

(a) A person who willfully violates a provision of this part or a rule promulgated thereunder, or in a registration statement or supplement thereto or in another document filed with or furnished to the attorney general and reporter under the provisions of this part willfully makes a false statement of a material fact, willfully omits a material fact required to be stated therein, or willfully omits a material fact or a copy of a material document necessary to make the statements therein, must, upon conviction thereof, be punished by a fine of not more than one hundred thousand dollars (\$100,000) or by imprisonment for not more than five (5) years, or both; provided, that, in the case of a violation § 8-6-505 or subsection (g), the punishment must be a fine of not more than fifty thousand dollars (\$50,000) or imprisonment for not more than twelve (12) months, or both.

(b) In a proceeding under this part in which it is charged that a person is an agent of a foreign principal from a country of concern, with respect to the foreign principal outside of the United States, proof of the specific identity of the foreign principal from a country of concern is permissible but not necessary.

(c) An alien who is convicted of a violation of, or a conspiracy to violate, a provision of this part or a rule promulgated thereunder is subject to referral to the United States department of justice for removal pursuant to the Immigration and Nationality Act (8 U.S.C. § 1101 et seq.).

(d) Failure to file a registration statement or supplements thereto as required by this part is considered a continuing offense for as long as such failure exists, notwithstanding a statute of limitations or another law to the contrary.

(e) Whenever in the judgment of the attorney general and reporter a person is engaged in or about to engage in an act constitutes or will constitute a violation of a provision of this part, or rules promulgated thereunder, or whenever an agent of a foreign principal from a country of concern fails to comply with this part or the rules promulgated thereunder, or otherwise is in violation of this part, the attorney general and reporter may make application to the appropriate state court for an order enjoining such acts or enjoining such person from continuing to act as an agent of such foreign principal from a country of concern, or for an order requiring compliance with the appropriate provision of this part or rule promulgated thereunder. The state court has jurisdiction and authority to issue a temporary or permanent injunction, restraining order, or such other order which it may deem proper.

(f) If the attorney general and reporter determines that a registration statement does not comply with the requirements of this part or the rules promulgated thereunder, the attorney general and reporter shall so notify the registrant in writing, specifying in what respects the statement is deficient. It is unlawful for a person to act as an agent of a foreign principal from a country of concern at any time ten (10) days or more after receipt of such notification without filing an amended registration statement in full compliance with the requirements of this part and the rules promulgated thereunder.

(g) It is unlawful for an agent of a foreign principal from a country of concern required to register under this part to be a party to a contract, agreement, or understanding, either express or implied, with the foreign principal from a country of concern pursuant to which the amount or payment of the compensation, fee, or other remuneration of such agent is contingent in whole or in part upon the success of political activities carried on by such agent.

8-6-510. Rules and regulations.

The attorney general and reporter may promulgate rules as necessary to carry out this part, in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

SECTION 2. The headings in this act are for reference purposes only and do not constitute a part of the law enacted by this act. However, the Tennessee Code Commission is requested to include the headings in any compilation or publication containing this act.

SECTION 3. For purposes of promulgating rules, this act takes effect upon becoming a law, the public welfare requiring it. For all other purposes, this act takes effect July 1, 2024, the public welfare requiring it.