

118TH CONGRESS
1ST SESSION

S. 439

To amend chapter 131 of title 5, United States Code, to prohibit transactions involving certain financial instruments by Members of Congress.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 15, 2023

Mr. HAWLEY introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

A BILL

To amend chapter 131 of title 5, United States Code, to prohibit transactions involving certain financial instruments by Members of Congress.

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. SHORT TITLE.**

4 This Act may be cited as the “Preventing Elected
5 Leaders from Owning Securities and Investments
6 (PELOSI) Act”.

7 **SEC. 2. BANNING INSIDER TRADING IN CONGRESS.**

8 (a) IN GENERAL.—Chapter 131 of title 5, United
9 States Code, is amended by adding at the end the fol-
10 lowing:

1 **“Subchapter IV—Banning Insider Trading in**
2 **Congress**

3 **“§ 13161. Definitions**

4 “In this subchapter:

5 “(1) COVERED FINANCIAL INSTRUMENT.—

6 “(A) IN GENERAL.—The term ‘covered fi-
7 nancial instrument’ means—

8 “(i) any investment in—

9 “(I) a security (as defined in sec-
10 tion 3(a) of Securities Exchange Act
11 of 1934 (15 U.S.C. 78c(a)));

12 “(II) a security future (as de-
13 fined in that section); or

14 “(III) a commodity (as defined in
15 section 1a of the Commodity Ex-
16 change Act (7 U.S.C. 1a)); and

17 “(ii) any economic interest com-
18 parable to an interest described in clause
19 (i) that is acquired through synthetic
20 means, such as the use of a derivative, in-
21 cluding an option, warrant, or other simi-
22 lar means.

23 “(B) EXCLUSIONS.—The term ‘covered fi-
24 nancial instrument’ does not include—

25 “(i) a diversified mutual fund;

1 “(ii) a diversified exchange-traded
2 fund;

3 “(iii) a United States Treasury bill,
4 note, or bond; or

5 “(iv) compensation from the primary
6 occupation of a spouse or dependent of a
7 Member of Congress.

8 “(2) MEMBER OF CONGRESS.—The term ‘Mem-
9 ber of Congress’ has the meaning given the term in
10 section 13101.

11 “(3) QUALIFIED BLIND TRUST.—The term
12 ‘qualified blind trust’ has the meaning given the
13 term in section 13104(f).

14 “(4) SUPERVISING ETHICS COMMITTEE.—The
15 term ‘supervising ethics committee’ means, as appli-
16 cable—

17 “(A) the Select Committee on Ethics of
18 the Senate; and

19 “(B) the Committee on Ethics of the
20 House of Representatives.

21 **“§ 13162. Prohibition on certain transactions and**
22 **holdings involving covered financial in-**
23 **struments**

24 “(a) PROHIBITION.—Except as provided in sub-
25 section (b), a Member of Congress, or any spouse of a

1 Member of Congress, may not, during the term of service
2 of the Member of Congress, hold, purchase, or sell any
3 covered financial instrument.

4 “(b) EXCEPTIONS.—The prohibition under sub-
5 section (a) shall not apply to—

6 “(1) a sale by a Member of Congress, or a
7 spouse of a Member of Congress, that is completed
8 by the date that is—

9 “(A) for a Member of Congress serving on
10 the date of enactment of the Preventing Elected
11 Leaders from Owning Securities and Invest-
12 ments (PELOSI) Act, 180 days after that date
13 of enactment; and

14 “(B) for any Member of Congress who
15 commences service as a Member of Congress
16 after the date of enactment of the Preventing
17 Elected Leaders from Owning Securities and
18 Investments (PELOSI) Act, 180 days after the
19 first date of the initial term of service; or

20 “(2) a covered financial instrument held in a
21 qualified blind trust operated on behalf of, or for the
22 benefit of, the Member of Congress or spouse of the
23 Member of Congress.

24 “(c) PENALTIES.—

1 “(1) DISGORGEMENT.—A Member of Congress
2 shall disgorge to the Treasury of the United States
3 any profit from a transaction or holding involving a
4 covered financial instrument that is conducted in
5 violation of this section.

6 “(2) FINES.—A Member of Congress who holds
7 or conducts a transaction involving, or whose spouse
8 holds or conducts a transaction involving, a covered
9 financial instrument in violation of this section may
10 be subject to a civil fine assessed by the supervising
11 ethics committee under section 13164.

12 **“§ 13163. Certification of compliance**

13 “(a) IN GENERAL.—Not less frequently than annu-
14 ally, each Member of Congress shall submit to the applica-
15 ble supervising ethics committee a written certification
16 that the Member of Congress has achieved compliance
17 with the requirements of this subchapter.

18 “(b) PUBLICATION.—The supervising ethics commit-
19 tees shall publish each certification submitted under sub-
20 section (a) on a publicly available website.

21 **“§ 13164. Authority of supervising ethics committees**

22 “(a) IN GENERAL.—The supervising ethics commit-
23 tees may implement and enforce the requirements of this
24 subchapter, including by—

25 “(1) issuing—

1 “(A) for Members of Congress—

2 “(i) rules governing that implementa-
3 tion; and

4 “(ii) 1 or more reasonable extensions
5 to achieve compliance with this subchapter,
6 if the supervising ethics committee deter-
7 mines that a Member of Congress is mak-
8 ing a good faith effort to divest any cov-
9 ered financial instruments; and

10 “(B) guidance relating to covered financial
11 instruments;

12 “(2) publishing on the internet certifications
13 submitted by Members of Congress under section
14 13163(a); and

15 “(3) assessing civil fines against any Member of
16 Congress who is in violation of this subchapter, sub-
17 ject to subsection (b).

18 “(b) REQUIREMENTS FOR CIVIL FINES.—

19 “(1) IN GENERAL.—Before imposing a fine pur-
20 suant to this section, a supervising ethics committee
21 shall provide to the applicable Member of Con-
22 gress—

23 “(A) a written notice describing each cov-
24 ered financial instrument transaction for which
25 a fine will be assessed; and

1 “(B) an opportunity, with respect to each
2 such covered financial instrument transaction—

3 “(i) for a hearing; and

4 “(ii) to achieve compliance with the
5 requirements of this subchapter.

6 “(2) PUBLICATION.—Each supervising ethics
7 committee shall publish on a publicly available
8 website a description of—

9 “(A) each fine assessed by the supervising
10 ethics committee pursuant to this section;

11 “(B) the reasons why each such fine was
12 assessed; and

13 “(C) the result of each assessment, includ-
14 ing any hearing under paragraph (1)(B)(i) re-
15 lating to the assessment.

16 “(3) APPEAL.—A Member of Congress may ap-
17 peal the assessment of a fine under this section to
18 a vote on the floor of the Senate or the House of
19 Representatives, as applicable, as a privileged mo-
20 tion.

21 **“§ 13165. Audit by Government Accountability Office**

22 “Not later than 2 years after the date of enactment
23 of the Preventing Elected Leaders from Owning Securities
24 and Investments (PELOSI) Act, the Comptroller General
25 of the United States shall—

1 “(1) conduct an audit of the compliance by
2 Members of Congress with the requirements of this
3 subchapter; and

4 “(2) submit to the supervising ethics commit-
5 tees a report describing the results of the audit con-
6 ducted under paragraph (1).”.

7 (b) CONFORMING AMENDMENTS.—

8 (1) Section 13103(f) of title 5, United States
9 Code, is amended—

10 (A) in paragraph (9), by striking “as de-
11 fined in section 13101 of this title”;

12 (B) in paragraph (10), by striking “as de-
13 fined in section 13101 of this title”;

14 (C) in paragraph (11), by striking “as de-
15 fined in section 13101 of this title”; and

16 (D) in paragraph (12), by striking “as de-
17 fined in section 13101 of this title”.

18 (2) Section 3(4)(D) of the Lobbying Disclosure
19 Act of 1995 (2 U.S.C. 1602(4)(D)) is amended by
20 striking “legislative branch employee serving in a po-
21 sition described under section 13101(13) of title 5,
22 United States Code” and inserting “officer or em-
23 ployee of Congress (as defined in section 13101 of
24 title 5, United States Code)”.

1 (3) The table of sections for chapter 131 of title
2 5, United States Code, is amended by adding at the
3 end the following:

“SUBCHAPTER IV—BANNING INSIDER TRADING IN CONGRESS

“13161. Definitions.

“13162. Prohibition on certain transactions and holdings involving covered financial instruments.

“13163. Certification of compliance.

“13164. Authority of supervising ethics committees.

“13165. Audit by Government Accountability Office.”.

○