

116TH CONGRESS  
1ST SESSION

# H. R. 2853

To amend the Federal Election Campaign Act of 1971 to require corporations to report disbursements made by foreign nationals for purposes of disseminating campaign-related public communications and to inquire whether persons providing such disbursements are foreign nationals, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 20, 2019

Mr. SWALWELL of California introduced the following bill; which was referred to the Committee on House Administration

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## A BILL

To amend the Federal Election Campaign Act of 1971 to require corporations to report disbursements made by foreign nationals for purposes of disseminating campaign-related public communications and to inquire whether persons providing such disbursements are foreign nationals, and for other purposes.

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 “Corporate Duty to Re-

5       port Act of 2019”.

1 **SEC. 2. RESPONSIBILITIES OF CORPORATIONS RELATING**  
 2 **TO DISBURSEMENTS FROM FOREIGN NATION-**  
 3 **ALS FOR PURPOSES OF DISSEMINATING CAM-**  
 4 **PAIGN-RELATED PUBLIC COMMUNICATIONS.**

5 (a) RESPONSIBILITIES DESCRIBED.—

6 (1) IN GENERAL.—Section 319 of the Federal  
 7 Election Campaign Act of 1971 (52 U.S.C. 30121)  
 8 is amended—

9 (A) by redesignating subsection (b) as sub-  
 10 section (c); and

11 (B) by inserting after subsection (a) the  
 12 following new subsection:

13 “(b) RESPONSIBILITIES OF CORPORATIONS RELAT-  
 14 ING TO DISBURSEMENTS FROM FOREIGN NATIONALS FOR  
 15 PURPOSES OF DISSEMINATING CAMPAIGN-RELATED PUB-  
 16 LIC COMMUNICATIONS.—

17 “(1) DUTIES TO REPORT RECEIPT OF DIS-  
 18 BURSEMENTS.—

19 “(A) REQUIREMENT.—It shall be unlawful  
 20 for a corporation which receives a disbursement  
 21 and knows that the disbursement is made in  
 22 whole or in part for purposes of disseminating  
 23 a campaign-related public communication de-  
 24 scribed in paragraph (3) and knows that the  
 25 person providing the disbursement is a foreign

1 national to fail to notify the Federal Bureau of  
2 Investigation of the receipt of the disbursement.

3 “(B) GOOD FAITH RELIANCE ON AFFIRMA-  
4 TION BY PERSON PROVIDING DISBURSEMENT.—

5 It is an affirmative defense to an allegation that  
6 a corporation committed a violation of subpara-  
7 graph (A) that the corporation relied in good  
8 faith on an affirmation by the person providing  
9 a disbursement described in such subparagraph  
10 that—

11 “(i) the disbursement is not made in  
12 whole or in part for purposes of dissemi-  
13 nating a campaign-related public commu-  
14 nication described in paragraph (3); or

15 “(ii) the person providing the dis-  
16 bursement is not a foreign national.

17 “(C) PENALTY.—A violation of subpara-  
18 graph (A) shall result in a fine under title 18,  
19 United States Code, of not more than  
20 \$1,000,000 for each such violation.

21 “(2) DUTY TO INQUIRE WHETHER DISBURSE-  
22 MENT IS FOR CAMPAIGN PURPOSES AND WHETHER  
23 PERSON PROVIDING DISBURSEMENT IS A FOREIGN  
24 NATIONAL.—

1           “(A) REQUIREMENT.—It shall be unlawful  
2           for a corporation which receives a disbursement  
3           which is made in whole or in part for purposes  
4           of disseminating a public communication (as de-  
5           fined in section 301(22))—

6                   “(i) to fail to inquire whether the  
7                   communication is a campaign-related pub-  
8                   lic communication described in paragraph  
9                   (3); and

10                   “(ii) if the corporation determines  
11                   that the communication is a campaign-re-  
12                   lated public communication), to fail to in-  
13                   quire whether the person providing the dis-  
14                   bursement is a foreign national.

15           “(B) CIVIL MONEY PENALTY.—A corpora-  
16           tion which violates subparagraph (A) shall be  
17           subject to a civil money penalty in accordance  
18           with section 309, except that the amount of the  
19           penalty may not exceed \$500,000 for each such  
20           violation.

21           “(3) CAMPAIGN-RELATED PUBLIC COMMUNICA-  
22           TIONS DESCRIBED.—In this subsection, a ‘campaign-  
23           related public communication’ is—

1           “(A) a public communication (as defined in  
2           section 301(22)) which is funded in whole or in  
3           part with an independent expenditure; or

4           “(B) an electioneering communication de-  
5           scribed in section 304(f)(3).”.

6           (2) EFFECTIVE DATE.—The amendments made  
7           by this section shall take effect upon the expiration  
8           of the 1-year period which begins on the date of the  
9           enactment of this Act.

10          (b) PROMULGATION OF REGULATIONS.—Not later  
11          than one year after the date of enactment of this Act, the  
12          Federal Election Commission shall promulgate regulations  
13          providing additional indicators beyond the pertinent facts  
14          described in section 110.20(a)(5) of title 11, Code of Fed-  
15          eral Regulations (as in effect on the date of enactment  
16          of this Act) that may lead a reasonable person to conclude  
17          that there is a substantial probability that the source of  
18          the funds solicited, accepted, or received is a foreign na-  
19          tional, as defined in section 319(c) of the Federal Election  
20          Act of 1971 (52 U.S.C. 30121(c)), as redesignated by sub-  
21          section (a)(1), or to inquire whether the source of the  
22          funds solicited, accepted, or received is a foreign national,  
23          as so defined. Regulations promulgated under the pro-  
24          ceeding sentence shall also provide guidance to political

- 1 committees and campaigns to not engage in racial or eth-
- 2 nic profiling in making such a conclusion or inquiry.

