



AMENDMENT NO. _____ Calendar No. _____

Purpose: To amend title 18, United States Code, to prohibit a foreign official from demanding a bribe, and for other purposes.

IN THE SENATE OF THE UNITED STATES—118th Cong., 1st Sess.

S. 2226

To auth	AMENDMENT N^o	1036	tary
acti			tary
con	By <i>Whitehouse</i>		part-
mer	To:		nnel
stre		<i>S. 2226</i>	oses.
Referre		<i>6</i>	nd
		Page(s)	

GPO: 2022 50-123 (mac)

AMENDMENT intended to be proposed by Mr. WHITEHOUSE (for himself, Mr. TILLIS, Mr. BLUMENTHAL, and Mr. KENNEDY)

Viz:

- 1 At the end of subtitle G of title X, add the following:
- 2 **SEC. 1083. PROHIBITION OF DEMAND FOR BRIBE.**
- 3 Section 201 of title 18, United States Code, is
- 4 amended—
- 5 (1) in subsection (a)—
- 6 (A) in paragraph (2), by striking “and” at
- 7 the end;

1 (B) in paragraph (3), by striking the pe-
2 riod at the end and inserting a semicolon; and

3 (C) by adding at the end the following:

4 “(4) the term ‘foreign official’ means—

5 “(A)(i) any official or employee of a for-
6 eign government or any department, agency, or
7 instrumentality thereof; or

8 “(ii) any senior foreign political figure, as
9 defined in section 1010.605 of title 31, Code of
10 Federal Regulations, or any successor regula-
11 tion;

12 “(B) any official or employee of a public
13 international organization;

14 “(C) any person acting in an official ca-
15 pacity for or on behalf of—

16 “(i) a government, department, agen-
17 cy, or instrumentality described in sub-
18 paragraph (A)(i); or

19 “(ii) a public international organiza-
20 tion; or

21 “(D) any person acting in an unofficial ca-
22 pacity for or on behalf of—

23 “(i) a government, department, agen-
24 cy, or instrumentality described in sub-
25 paragraph (A)(i); or

1 “(ii) a public international organiza-
2 tion; and

3 “(5) the term ‘public international organization’
4 means—

5 “(A) an organization that is designated by
6 Executive order pursuant to section 1 of the
7 International Organizations Immunities Act (22
8 U.S.C. 288); or

9 “(B) any other international organization
10 that is designated by the President by Execu-
11 tive order for the purposes of this section, effec-
12 tive as of the date of publication of such order
13 in the Federal Register.”; and

14 (2) by adding at the end the following:

15 “(f) PROHIBITION OF DEMAND FOR A BRIBE.—

16 “(1) OFFENSE.—It shall be unlawful for any
17 foreign official or person selected to be a foreign of-
18 ficial to corruptly demand, seek, receive, accept, or
19 agree to receive or accept, directly or indirectly, any-
20 thing of value personally or for any other person or
21 nongovernmental entity, by making use of the mails
22 or any means or instrumentality of interstate com-
23 merce, from any person (as defined in section 104A
24 of the Foreign Corrupt Practices Act of 1977 (15
25 U.S.C. 78dd-3), except that that definition shall be

1 applied without regard to whether the person is an
2 offender) while in the territory of the United States,
3 from an issuer (as defined in section 3(a) of the Se-
4 curities Exchange Act of 1934 (15 U.S.C. 78c(a))),
5 or from a domestic concern (as defined in section
6 104 of the Foreign Corrupt Practices Act of 1977
7 (15 U.S.C. 78dd-2)), in return for—

8 “(A) being influenced in the performance
9 of any official act;

10 “(B) being induced to do or omit to do any
11 act in violation of the official duty of such for-
12 eign official or person; or

13 “(C) conferring any improper advantage,
14 in connection with obtaining or retaining business
15 for or with, or directing business to, any person.

16 “(2) PENALTIES.—Any person who violates
17 paragraph (1) shall be fined not more than
18 \$250,000 or 3 times the monetary equivalent of the
19 thing of value, imprisoned for not more than 15
20 years, or both.

21 “(3) JURISDICTION.—An offense under para-
22 graph (1) shall be subject to extraterritorial Federal
23 jurisdiction.

24 “(4) REPORT.—Not later than 1 year after the
25 date of enactment of the Foreign Extortion Preven-

1 tion Act, and annually thereafter, the Attorney Gen-
2 eral, in consultation with the Secretary of State as
3 relevant, shall submit to the Committee on the Judi-
4 ciary and the Committee on Foreign Relations of the
5 Senate and the Committee on the Judiciary and the
6 Committee on Foreign Affairs of the House of Rep-
7 resentatives, and post on the publicly available
8 website of the Department of Justice, a report—

9 “(A) focusing, in part, on demands by for-
10 eign officials for bribes from entities domiciled
11 or incorporated in the United States, and the
12 efforts of foreign governments to prosecute such
13 cases;

14 “(B) addressing United States diplomatic
15 efforts to protect entities domiciled or incor-
16 porated in the United States from foreign brib-
17 ery, and the effectiveness of those efforts in
18 protecting such entities;

19 “(C) summarizing major actions taken
20 under this section in the previous year, includ-
21 ing enforcement actions taken and penalties im-
22 posed;

23 “(D) evaluating the effectiveness of the
24 Department of Justice in enforcing this section;
25 and

1 “(E) detailing what resources or legislative
2 action the Department of Justice needs to en-
3 sure adequate enforcement of this section.

4 “(5) RULE OF CONSTRUCTION.—This sub-
5 section shall not be construed as encompassing con-
6 duct that would violate section 30A of the Securities
7 Exchange Act of 1934 (15 U.S.C. 78dd-1) or sec-
8 tion 104 or 104A of the Foreign Corrupt Practices
9 Act of 1977 (15 U.S.C. 78dd-2; 15 U.S.C. 78dd-
10 3) whether pursuant to a theory of direct liability,
11 conspiracy, complicity, or otherwise.”.