

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 140
OFFERED BY MR. COMER OF KENTUCKY**

Strike all after the enacting clause and insert the following:

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Protecting Speech
3 from Government Interference Act”.

4 **SEC. 2. PROHIBITION ON FEDERAL EMPLOYEE CENSOR-**
5 **SHIP.**

6 (a) IN GENERAL.—Chapter 73 of title 5, United
7 States Code, is amended by adding at the end the fol-
8 lowing:

9 “SUBCHAPTER VIII—PROHIBITION ON
10 FEDERAL EMPLOYEE CENSORSHIP
11 “§ 7381. Policy regarding Federal employee censor-
12 ship

13 “It is the policy of the Congress that employees act-
14 ing in their official capacity should neither take action
15 within their authority or influence to promote the censor-
16 ship of any lawful speech, nor advocate that a third party,
17 including a private entity, censor such speech.

1 **“§ 7382. Prohibition on Federal employee censorship**

2 “(a) IN GENERAL.—An employee may not—

3 “(1) use the employee’s official authority to
4 censor any private entity, including outside of nor-
5 mal duty hours and while such employee is away
6 from the employee’s normal duty post; or

7 “(2) engage in censorship of a private entity—

8 “(A) while the employee is on duty;

9 “(B) in any room or building occupied in
10 the discharge of official duties by an individual
11 employed or holding office in the Government of
12 the United States or any agency or instrumen-
13 tality thereof;

14 “(C) while wearing a uniform or official in-
15 signia identifying the office or position of the
16 employee;

17 “(D) while using any vehicle owned or
18 leased by the Government of the United States
19 or any agency or instrumentality thereof; or

20 “(E) while using any information system
21 or information technology (as defined under
22 section 11101 of title 40).

23 “(b) EXCEPTIONS FOR LAW ENFORCEMENT FUNC-
24 TIONS AND REPORTING REQUIREMENTS.—

25 “(1) IN GENERAL.—Nothing in this section
26 shall be construed to prohibit an employee from en-

1 gaging in lawful actions within the official authority
2 of such employee for the purpose of exercising legiti-
3 mate law enforcement functions, including activities
4 to—

5 “(A) combat child pornography and exploi-
6 tation, human trafficking, or the illegal trans-
7 porting of or transacting in controlled sub-
8 stances; and

9 “(B) safeguarding, or preventing, the un-
10 lawful dissemination of properly classified na-
11 tional security information.

12 “(2) REPORTING.—

13 “(A) IN GENERAL.—Not later than 72
14 hours before an employee exercises a legitimate
15 law enforcement function to take any action to
16 censor any lawful speech (in this paragraph re-
17 ferred to as a ‘censorship action’), but not in-
18 cluding any such action relating to activities de-
19 scribed under subparagraph (A) or (B) of para-
20 graph (1), the head of the agency that employs
21 the employee shall submit, to the Office of Spe-
22 cial Counsel and the chair and ranking member
23 of the committees of Congress described under
24 subparagraph (B), a report that includes—

1 “(i) an overview of the action, or ac-
2 tions, to be taken, including a summary of
3 the action being taken and the rationale
4 for why a censorship action is necessary;

5 “(ii) the name of the entity which the
6 action is being requested of;

7 “(iii) the person and entity targeted
8 by the censorship action, including the as-
9 sociated name or number of any account
10 used or maintained by the entity and a de-
11 scription of the specific speech content tar-
12 geted;

13 “(iv) the agency’s legal authority for
14 exercising the law enforcement function;

15 “(v) the agency employee or employ-
16 ees involved in the censorship action, in-
17 cluding their position and any direct super-
18 visor;

19 “(vi) a list of other agencies that have
20 been involved, consulted, or communicated
21 with in coordination with the censorship
22 action; and

23 “(vii) a classified annex, if the agency
24 head deems it appropriate.

1 “(B) COMMITTEES.—The committees of
2 Congress described under this subparagraph are
3 the following:

4 “(i) The Committee on Oversight and
5 Accountability, the Committee on the Judi-
6 ciary, and the Committee on Energy and
7 Commerce of the House of Representa-
8 tives; and

9 “(ii) The Committee on Homeland Se-
10 curity and Governmental Affairs, the Com-
11 mittee on the Judiciary, and the Com-
12 mittee on Commerce, Science, and Trans-
13 portation of the Senate.

14 “(C) CLARIFICATION OF OFFICE OF SPE-
15 CIAL COUNSEL REPORTING REQUIREMENTS.—
16 The reporting requirements in this paragraph
17 do not apply to the Office of Special Counsel’s
18 advisory and enforcement functions under sub-
19 chapter II of chapter 12.

20 “(c) PENALTIES.—

21 “(1) IN GENERAL.—An employee who violates
22 this section shall be subject to—

23 “(A) disciplinary action consisting of re-
24 moval, reduction in grade, debarment from

1 Federal employment for a period not to exceed
2 5 years, suspension, or reprimand;

3 “(B) an assessment of a civil penalty not
4 to exceed \$1,000; or

5 “(C) any combination of the penalties de-
6 scribed in subparagraph (A) or (B).

7 “(2) APPLICATION TO SENIOR GOVERNMENT
8 OFFICIALS.—Paragraph (1)(B) shall be applied by
9 substituting ‘\$10,000’ for ‘\$1,000’ for any employee
10 who is—

11 “(A) paid from an appropriation for the
12 White House Office; or

13 “(B) appointed by the President, by and
14 with the advice and consent of the Senate;

15 “(d) ENFORCEMENT.—This section shall be enforced
16 in the same manner as subchapter III of this chapter.

17 “(e) DEFINITIONS.—In this subchapter—

18 “(1) the term ‘censor’ or ‘censorship’ means in-
19 fluencing or coercing, or directing another to influ-
20 ence or coerce, for—

21 “(A) the removal or suppression of lawful
22 speech, in whole or in part, from or on any
23 interactive computer service;

1 “(B) the addition of any disclaimer, infor-
2 mation, or other alert to lawful speech being ex-
3 pressed on an interactive computer service; or

4 “(C) the removal or restriction of access of
5 any person or entity on an interactive computer
6 service generally available to the public, unless
7 such person or entity is engaged in unlawful
8 speech or criminal activities on such service;

9 “(2) the term ‘employee’ has the meaning given
10 that term in section 7322;

11 “(3) the term ‘interactive computer service’ has
12 the meaning given that term in section 230(f) of the
13 Communications Act of 1934 (47 U.S.C. 230(f));
14 and

15 “(4) the term ‘lawful speech’ means speech pro-
16 tected by the First Amendment of the Constitu-
17 tion.”.

18 (b) CLERICAL AMENDMENT.—The table of sections
19 for chapter 73 of title 5, United States Code, is amended
20 by adding at the end the following:

“SUBCHAPTER VIII—PROHIBITION ON FEDERAL EMPLOYEE CENSORSHIP

“7381. Policy regarding Federal employee censorship.

“7382. Prohibition on Federal employee censorship.”.

21 (c) INCLUDING CENSORSHIP ACTIVITIES UNDER JU-
22 RISDICTION OF OFFICE OF SPECIAL COUNSEL.—Strike

1 paragraph (1) of section 1216(a) of title 5, United States
2 Code, and insert the following:

3 “(1) political activity and censorship prohibited
4 under subchapter III and subchapter VIII of chapter
5 73, relating to political and censorship activities, re-
6 spectively, by Federal employees;”.

7 (d) RULE OF CONSTRUCTION.—Nothing in this Act
8 or any amendment made by this Act should be interpreted
9 as prohibiting a lawful action by a Federal agency to en-
10 force a Federal law or regulation, to establish or enforce
11 the terms and conditions of Federal financial assistance,
12 or to prohibit a Federal employee from using an official
13 Federal account on an interactive computer service to
14 communicate an official policy position, and relevant infor-
15 mation, to the public, or provide information through nor-
16 mal press and public affairs relations.

17 (e) SEVERABILITY.—If any provision of this Act or
18 any amendment made by this Act, or the application of
19 a provision of this Act or an amendment made by this
20 Act to any person or circumstance, is held to be unconsti-
21 tutional, the remainder of this Act, and the application
22 of the provisions to any person or circumstance, shall not
23 be affected by the holding.

