

118TH CONGRESS
2D SESSION

H. R. 10250

To specify the state of mind required for conviction for criminal offenses that lack an expressly identified state of mind, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 22, 2024

Mr. BIGGS (for himself, Ms. BOEBERT, Mr. OGLE, and Mr. MOORE of Alabama) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To specify the state of mind required for conviction for criminal offenses that lack an expressly identified state of mind, 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 “Mens Rea Reform Act
5 of 2024”.

1 **SEC. 2. STATE OF MIND ELEMENT FOR CRIMINAL OF-**
2 **FENSES.**

3 (a) IN GENERAL.—Chapter 1 of title 18, United
4 States Code, is amended by adding at the end the fol-
5 lowing:

6 **“§ 28. State of mind when not otherwise specifically**
7 **provided**

8 “(a) DEFINITIONS.—In this section—

9 “(1) the term ‘covered offense’—

10 “(A) means an offense—

11 “(i) specified in—

12 “(I) this title or any other Act of
13 Congress;

14 “(II) any regulation; or

15 “(III) any law (including regula-
16 tions) of any State or foreign govern-
17 ment incorporated by reference into
18 this title or any other Act of Con-
19 gress; and

20 “(ii) that is punishable by imprison-
21 ment, a maximum criminal fine of at least
22 \$2,500, or both; and

23 “(B) does not include—

24 “(i) any offense set forth in chapter
25 47 or chapter 47A of title 10; or

1 “(ii) any offense incorporated by sec-
2 tion 13(a) of this title;

3 “(2) the term ‘knowingly’, as related to an ele-
4 ment of an offense, means—

5 “(A) if the element involves the nature of
6 the conduct of a person or the attendant cir-
7 cumstances, that the person is aware that the
8 conduct of the person is of that nature or that
9 such circumstances exist; and

10 “(B) if the element involves a result of the
11 conduct of a person, that the person is aware
12 that it is practically certain that the conduct of
13 the person will cause such a result;

14 “(3) the term ‘state of mind’ means willfully,
15 intentionally, maliciously, knowingly, recklessly, wan-
16 tonly, negligently, with reason to believe, or any
17 other word or phrase that is synonymous with or
18 substantially similar to any such term; and

19 “(4) the term ‘willfully’, as related to an ele-
20 ment of an offense, means—

21 “(A) that the person acted with knowledge
22 that the person’s conduct was unlawful; and

23 “(B) if the element involves the nature, at-
24 tendant circumstances, object, or result of the
25 conduct of a person, that—

1 “(i) the person had knowledge of the
2 nature, attendant circumstances, object, or
3 result of the conduct of the person; and

4 “(ii) it was the conscious object of the
5 person to engage in conduct—

6 “(I) of that nature;

7 “(II) with that attendant cir-
8 cumstance;

9 “(III) with that object; or

10 “(IV) to cause such a result.

11 “(b) DEFAULT REQUIREMENT.—Except as provided
12 in subsections (c) and (d), a covered offense shall be con-
13 strued to require the Government to prove beyond a rea-
14 sonable doubt that the defendant acted—

15 “(1) with the state of mind specified in the text
16 of the covered offense for each element of the of-
17 fense for which the text specifies a state of mind;
18 and

19 “(2) knowingly, with respect to any element of
20 the offense for which the text of the covered offense
21 does not specify a state of mind.

22 “(c) FAILURE TO DISTINGUISH AMONG ELE-
23 MENTS.—Except as provided in subsection (d), if the text
24 of a covered offense specifies the state of mind required
25 for commission of the covered offense without specifying

1 the elements of the covered offense to which the state of
2 mind applies, the state of mind specified shall apply to
3 all elements of the covered offense, unless a contrary pur-
4 pose plainly appears.

5 “(d) EXCEPTIONS.—

6 “(1) IN GENERAL.—Subsections (b)(2) and (c)
7 shall not apply with respect to—

8 “(A) any element for which the text of the
9 covered offense makes clear that Congress af-
10 firmatively intended not to require the Govern-
11 ment to prove any state of mind with respect to
12 such element;

13 “(B) any element of a covered offense, to
14 the extent that the element establishes—

15 “(i) subject matter jurisdiction over
16 the covered offense; or

17 “(ii) venue with respect to trial of the
18 covered offense; or

19 “(C) any element of a covered offense, to
20 the extent that applying subsections (b)(2) and
21 (c) to such element would lessen the degree of
22 mental culpability that the Government is re-
23 quired to prove with respect to that element
24 under—

1 “(i) precedent of the Supreme Court
2 of the United States; or

3 “(ii) any other provision of this title,
4 any other Act of Congress, or any regula-
5 tion.

6 “(2) MERE ABSENCE INSUFFICIENT.—For pur-
7 poses of paragraph (1)(A), the mere absence of a
8 specified state of mind for an element of a covered
9 offense in the text of the covered offense shall not
10 be construed to mean that Congress affirmatively in-
11 tended not to require the Government to prove any
12 state of mind with respect to that element.

13 “(e) APPLICABILITY.—This section shall apply with
14 respect to a covered offense—

15 “(1) without regard to whether the provision or
16 provisions specifying the covered offense are enacted,
17 promulgated, or finalized before, on, or after the
18 date of enactment of this section; and

19 “(2) that was committed—

20 “(A) on or after the date of enactment of
21 this section; or

22 “(B) before the date of enactment of this
23 section, unless—

24 “(i) applying this section to such cov-
25 ered offense would—

1 “(I) punish as a crime conduct
2 that was innocent when done;

3 “(II) increase the punishment for
4 the covered offense; or

5 “(III) deprive a person charged
6 with the covered offense of any de-
7 fense available according to law at the
8 time the covered offense occurred;

9 “(ii) a jury has been empaneled and
10 sworn in a prosecution for the covered of-
11 fense before the date of enactment of this
12 section;

13 “(iii) the first witness has been sworn
14 in a prosecution for the covered offense
15 tried without a jury before the date of en-
16 actment of this section; or

17 “(iv) a sentence has been imposed fol-
18 lowing a plea of guilty or nolo contendere
19 in a prosecution for the covered offense be-
20 fore the date of enactment of this section.

21 “(f) SUBSEQUENTLY ENACTED LAWS.—No provision
22 of law enacted after the date of enactment of this section
23 shall be construed to repeal, modify the text or effect of,
24 or supersede in whole or in part this section, unless such
25 law specifically refers to this section and explicitly repeals,

1 modifies the text or effect of, or supersedes in whole or
2 in part this section.”.

3 (b) TECHNICAL AND CONFORMING AMENDMENT.—

4 The table of sections for chapter 1 of title 18, United
5 States Code, is amended by adding at the end the fol-
6 lowing:

“28. State of mind when not otherwise specifically provided.”.

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