

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 527; Pub. L. 101-194, title III, §301, Nov. 30, 1989, 103 Stat. 1745; Pub. L. 101-280, §4(a), May 4, 1990, 104 Stat. 157.)

HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 113.	R.S. §1784.

The application of the section is confined to employees, since the President and Members of Congress, though officers, could not have been intended to be “summarily discharged”, and members of uniformed services are not covered by this statute. In the last sentence, the word “removed” is substituted for “summarily discharged” because of the provisions of the Lloyd-LaFollette Act, 37 Stat. 555, as amended, and the Veterans’ Preference Act of 1944, 58 Stat. 387, as amended, which are carried into this title.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1990—Subsec. (a)(2). Pub. L. 101-280, §4(a)(1), inserted “or give a gift” after “donation as a gift”.

Subsec. (c). Pub. L. 101-280, §4(a)(2), substituted “Each supervising ethics office (as defined in section 7353(d)(1))” for “The Office of Government Ethics” and “circumstances in which gifts are traditionally given or exchanged” for “similar circumstances”.

1989—Pub. L. 101-194 designated existing provisions as subsec. (a), struck out “An employee who violates this section shall be removed from the service.” at end, and added subsecs. (b) and (c).

INAPPLICABILITY TO TRANSFERS OF UNUSED ACCRUED ANNUAL LEAVE BY FEDERAL EMPLOYEES; EXCEPTION

Pub. L. 100-284, Apr. 7, 1988, 102 Stat. 81, provided: “That, except as the Office of Personnel Management may by regulation prescribe, nothing in section 7351 of title 5, United States Code, shall apply with respect to a solicitation, donation, or acceptance of leave under any program under which, during the fiscal year ending on September 30, 1988, unused accrued annual leave of officers or employees of the Federal Government may be transferred for use by other officers or employees who need such leave due to a personal emergency.”

§ 7352. Excessive and habitual use of intoxicants

An individual who habitually uses intoxicating beverages to excess may not be employed in the competitive service.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 527.)

HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 640.	Jan. 16, 1883, ch. 27, §8, 22 Stat. 406.

The word “employed” is substituted for “appointed to, or retained in” because it includes both.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

§ 7353. Gifts to Federal employees

(a) Except as permitted by subsection (b), no Member of Congress or officer or employee of the executive, legislative, or judicial branch shall solicit or accept anything of value from a person—

(1) seeking official action from, doing business with, or (in the case of executive branch

officers and employees) conducting activities regulated by, the individual’s employing entity; or

(2) whose interests may be substantially affected by the performance or nonperformance of the individual’s official duties.

(b)(1) Each supervising ethics office is authorized to issue rules or regulations implementing the provisions of this section and providing for such reasonable exceptions as may be appropriate.

(2)(A) Subject to subparagraph (B), a Member, officer, or employee may accept a gift pursuant to rules or regulations established by such individual’s supervising ethics office pursuant to paragraph (1).

(B) No gift may be accepted pursuant to subparagraph (A) in return for being influenced in the performance of any official act.

(3) Nothing in this section precludes a Member, officer, or employee from accepting gifts on behalf of the United States Government or any of its agencies in accordance with statutory authority.

(4) Nothing in this section precludes an employee of a private sector organization, while assigned to an agency under chapter 37, from continuing to receive pay and benefits from such organization in accordance with such chapter.

(c) A Member of Congress or an officer or employee who violates this section shall be subject to appropriate disciplinary and other remedial action in accordance with any applicable laws, Executive orders, and rules or regulations.

(d) For purposes of this section—

(1) the term “supervising ethics office” means—

(A) the Committee on Standards of Official Conduct of the House of Representatives or the House of Representatives as a whole, for Members, officers, and employees of the House of Representatives;

(B) the Select Committee on Ethics of the Senate, or the Senate as a whole, for Senators, officers, and employees of the Senate;

(C) the Judicial Conference of the United States for judges and judicial branch officers and employees;

(D) the Office of Government Ethics for all executive branch officers and employees; and

(E) in the case of legislative branch officers and employees other than those specified in subparagraphs (A) and (B), the committee referred to in either such subparagraph to which reports filed by such officers and employees under title I of the Ethics in Government Act of 1978 are transmitted under such title, except that the authority of this section may be delegated by such committee with respect to such officers and employees; and

(2) the term “officer or employee” means an individual holding an appointive or elective position in the executive, legislative, or judicial branch of Government, other than a Member of Congress.

(Added Pub. L. 101-194, title III, §303(a), Nov. 30, 1989, 103 Stat. 1746; amended Pub. L. 101-280, §4(d), May 4, 1990, 104 Stat. 158; Pub. L. 107-347, title II, §209(g)(1)(C), Dec. 17, 2002, 116 Stat. 2932.)