

114TH CONGRESS
2D SESSION

S. 3469

To reinstate reporting requirements related to United States-Hong Kong relations.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 16, 2016

Mr. RUBIO (for himself and Mr. COTTON) introduced the following bill; which was read twice and referred to the Committee on Foreign Relations

A BILL

To reinstate reporting requirements related to United States-Hong Kong relations.

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 “Hong Kong Human
5 Rights and Democracy Act of 2016”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

8 (1) ADMITTED; ALIEN.—The terms “admitted”
9 and “alien” have the meanings given those terms in

1 section 101 of the Immigration and Nationality Act
2 (8 U.S.C. 1101).

3 (2) APPROPRIATE CONGRESSIONAL COMMIT-
4 TEES.—The term “appropriate congressional com-
5 mittees” means—

6 (A) the Committee on Armed Services, the
7 Committee on Financial Services, the Com-
8 mittee on Foreign Affairs, the Committee on
9 Homeland Security, and the Committee on the
10 Judiciary of the House of Representatives; and

11 (B) the Committee on Armed Services, the
12 Committee on Banking, Housing, and Urban
13 Affairs, the Committee on Foreign Relations,
14 the Committee on Homeland Security and Gov-
15 ernmental Affairs, and the Committee on the
16 Judiciary of the Senate.

17 (3) FINANCIAL INSTITUTION.—The term “fi-
18 nancial institution” has the meaning given that term
19 in section 5312 of title 31, United States Code.

20 (4) UNITED STATES PERSON.—The term
21 “United States person” means—

22 (A) a United States citizen or an alien law-
23 fully admitted for permanent residence to the
24 United States; or

1 (B) an entity organized under the laws of
2 the United States or of any jurisdiction within
3 the United States, including a foreign branch of
4 such an entity.

5 **SEC. 3. FINDINGS.**

6 Congress makes the following findings:

7 (1) The Joint Declaration of the Government of
8 the United Kingdom of Great Britain and Northern
9 Ireland and the Government of the People's Repub-
10 lic of China on the Question of Hong Kong, done at
11 Beijing December 19, 1984 (in this Act referred to
12 as the "Joint Declaration")—

13 (A) provided that the People's Republic of
14 China resumed sovereignty over Hong Kong on
15 July 1, 1997; and

16 (B) established a "high degree of auton-
17 omy" for Hong Kong except in matters of for-
18 eign affairs and defense.

19 (2) The Basic Law of the Hong Kong Special
20 Administrative Region of the People's Republic of
21 China (in this Act referred to as "Basic Law")—

22 (A) guarantees Hong Kong a "high degree
23 of autonomy" and separate executive, legisla-
24 tive, and independent judicial powers;

1 (B) generally prohibits the central Govern-
2 ment of the People’s Republic of China from
3 interfering in the affairs that Hong Kong ad-
4 ministers on its own according to the Basic
5 Law;

6 (C) protects the rights to free speech,
7 press, assembly, and religion;

8 (D) guarantees residents of Hong Kong
9 “the freedom of the person”, meaning “no
10 Hong Kong resident shall be subjected to arbi-
11 trary or unlawful arrest, detention or imprison-
12 ment”;

13 (E) guarantees residents of Hong Kong
14 “the right to confidential legal advice, access to
15 the courts, choice of lawyers for timely protec-
16 tion of their lawful rights and interests or for
17 representation in the courts, and to judicial
18 remedies”;

19 (F) provides that the socialist system and
20 policies shall not be practiced in Hong Kong
21 and that Hong Kong’s capitalist system and
22 way of life shall remain unchanged for 50 years
23 (the principle of “one country, two systems”);

1 (G) affirms the continuing applicability of
2 the International Covenant on Civil and Polit-
3 ical Rights to Hong Kong;

4 (H) provides that the head of the Hong
5 Kong Special Administrative Region shall be
6 the Chief Executive;

7 (I) provides that “the ultimate aim is the
8 selection of the Chief Executive by universal
9 suffrage upon nomination by a broadly rep-
10 resentative nominating committee in accordance
11 with democratic procedures”;

12 (J) provides that the legislature of the
13 Hong Kong Special Administrative Region shall
14 be the Legislative Council; and

15 (K) provides that “the ultimate aim is the
16 election of all the members of the Legislative
17 Council by universal suffrage”.

18 (3) The National People’s Congress Standing
19 Committee (NPCSC) determined on December 29,
20 2007, that Hong Kong could elect the Chief Execu-
21 tive by universal suffrage beginning in 2017, and
22 that Hong Kong could thereafter elect the Legisla-
23 tive Council by universal suffrage beginning in 2020.

24 (4) The Chief Executive is currently selected by
25 an Election Committee consisting of 1,200 members.

1 In order to run, candidates for Chief Executive must
2 currently receive the support of one-eighth of the
3 members of the Election Committee, the majority of
4 whom reportedly support or have ties to the Chinese
5 Communist Party.

6 (5) On August 31, 2014, the NPCSC deter-
7 mined that the 2017 election for the Chief Executive
8 could be held by universal suffrage but that Hong
9 Kong voters could only choose from two to three
10 candidates, each of whom is to be chosen by a ma-
11 jority of a nominating committee similar to the cur-
12 rent Election Committee that is heavily controlled by
13 pro-Beijing members.

14 (6) International standards for elections, in-
15 cluding Article 21 of the Universal Declaration of
16 Human Rights and Article 25 of the International
17 Covenant on Civil and Political Rights, guarantee
18 citizens the right to vote and to be elected in gen-
19 uine periodic elections by universal and equal suf-
20 frage without unreasonable restrictions.

21 (7) Hundreds of thousands of Hong Kong resi-
22 dents have consistently and peacefully expressed
23 their dissatisfaction with the electoral reform plans
24 of the Hong Kong government and the Government
25 of the People's Republic of China, including the Au-

1 gust 2014 NPCSC decision, and have called for a
2 genuine choice in elections that meet international
3 standards. Their peaceful and orderly protests have
4 set an example for other democratic movements
5 around the world, including those in mainland China
6 that continue to fight for their fundamental free-
7 doms.

8 (8) Media reports and video footage indicate
9 that Hong Kong police used tear gas and pepper
10 spray against pro-democracy demonstrators on Sep-
11 tember 28, 2014. There have also been accusations
12 of excessive use of force by the Hong Kong police,
13 but no police officer has yet been convicted.

14 (9) Protestors and pro-democracy activists re-
15 ported sustained harassment and intimidation dur-
16 ing and after the demonstrations, including hacking
17 of their email accounts or phone, by groups report-
18 edly connected to the Government of the People's
19 Republic of China.

20 (10) Some protestors and activists have been
21 unable to travel to mainland China due to their par-
22 ticipation in the demonstrations, which has a direct
23 bearing on their future employment prospects. Pro-
24 democracy advocates claim that the Governments of
25 the People's Republic of China and Hong Kong have

1 assembled “blacklists” of activists banned from en-
2 tering mainland China.

3 (11) Several prominent student leaders, includ-
4 ing Joshua Wong, leader of the now dissolved stu-
5 dent activist group Scholarism and Secretary-Gen-
6 eral of the political party Demosisto, Nathan Law,
7 former General Secretary of the Hong Kong Federa-
8 tion of Students and now member of the Legislative
9 Council, and Alex Chow, the former General Sec-
10 retary of the Hong Kong Federation of Students,
11 had legal charges levied against them due to their
12 participation in pro-democracy protest activities in
13 September 2014. Wong and Chow were convicted of
14 “unlawful assembly” while Law was convicted of
15 “incitement”, offenses under Hong Kong’s Public
16 Order Ordinance, which is incompatible with inter-
17 national standards on the freedom of assembly.

18 (12) Ahead of the September 2016 Legislative
19 Council election, the Electoral Affairs Commission in
20 Hong Kong issued a new “confirmation form” for
21 Legislative Council candidates to sign confirming
22 their commitment to uphold the Basic Law, specifi-
23 cally the provisions holding that the territory is an
24 inalienable part of China. Six pro-independence can-
25 didates were disqualified for failing to do so. This

1 new requirement has been characterized as unlawful
2 and political censorship by lawyers, political organi-
3 zations, and students.

4 (13) In the September 2016 election, Sixtus
5 “Baggio” Leung and Yau Wai-ching won seats in
6 the Legislative Council after running on platforms
7 supportive of Hong Kong’s democratic self-deter-
8 mination. When swearing the oath of office in Octo-
9 ber 2016, both men altered the standard oath of of-
10 fice, after which the Hong Kong government sued in
11 an attempt to permanently block them from retaking
12 the oath.

13 (14) In November 2016, with the court pro-
14 ceedings still underway, the Chinese central govern-
15 ment, on its own initiative, issued an interpretation
16 of Hong Kong’s Basic Law, thereby preventing these
17 two democratically elected lawmakers from taking
18 their seats in the Legislative Council. The Hong
19 Kong Bar Association warned in advance that an
20 intervention by the Chinese government would “deal
21 a severe blow to the independence of the judiciary
22 and the power of final adjudication of the Hong
23 Kong court”.

24 (15) Five individuals affiliated with the Mighty
25 Current Media publishing company and the Cause-

1 way Bay Bookstore, both of which are based in
2 Hong Kong and sell literary works critical of Bei-
3 jing, disappeared under mysterious circumstances
4 between October and December 2015, including Gui
5 Minhai, a naturalized Swedish citizen and co-owner
6 of Mighty Current; Lee Bo, a British citizen and co-
7 owner of Mighty Current; Lui Bo; Cheung Chi-ping;
8 and Lam Wing-kee.

9 (16) Upon his return to Hong Kong in June
10 2016, Lam publicly revealed details of his and the
11 other booksellers' detentions, including their forced
12 confessions, and alleged that the abductions and de-
13 tentions were directed by Chinese central govern-
14 ment officials.

15 (17) Despite Lee's denial that he was abducted
16 and the televised confessions of the other four, the
17 five men's disappearances have been widely con-
18 demned by human rights organizations and foreign
19 officials and have resulted in allegations of mainland
20 China's law enforcement agencies operating in Hong
21 Kong, which would be a violation of the Basic Law.

22 (18) In February 2016, the British Foreign
23 Secretary said Lee Bo's involuntary removal to
24 mainland China "constitute[d] a serious breach of
25 the Sino-British Joint Declaration that paved the

1 way for Hong Kong’s 1997 return to China. As part
2 of the treaty, China promised to safeguard Hong
3 Kong’s freedoms”.

4 (19) As China’s use of public “confessions” has
5 expanded, several Hong Kong media outlets have
6 been the medium whereby prominent rights defend-
7 ers and lawyers, including Wang Yu and Zhao Wei,
8 have “confessed” to their alleged crimes.

9 (20) The United States enjoys close economic,
10 social, and cultural ties with Hong Kong. According
11 to the Department of State, 60,000 United States
12 citizens live in Hong Kong, and 1,400 United States
13 businesses have offices there. According to the Office
14 of the United States Trade Representative, Hong
15 Kong is the United States 18th largest trade part-
16 ner and 10th largest export market for United
17 States goods.

18 (21) Hong Kong’s unique status as an inter-
19 national finance center where the rule of law and the
20 rights and freedoms of its citizens are protected has
21 served as the foundation for Hong Kong’s stability
22 and prosperity.

23 (22) Section 301 of the Hong Kong Policy Act
24 of 1992 (22 U.S.C. 5731) required the Secretary of
25 State to issue reports on conditions in Hong Kong

1 of interest to the United States, including the devel-
2 opment of democratic institutions in Hong Kong,
3 and the last report under section 301 was issued on
4 June 30, 2007.

5 (23) Failure to establish a genuine democratic
6 option to nominate and elect the Chief Executive of
7 Hong Kong by 2017 and to establish open and di-
8 rect democratic elections for all members of the
9 Hong Kong Legislative Council by 2020 would re-
10 duce confidence in the commitment of the Govern-
11 ment of the People's Republic of China to uphold its
12 obligations under international law, and would erode
13 the ability of Hong Kong to retain a high degree of
14 autonomy.

15 (24) During an October 2014 session, the
16 United Nations Human Rights Committee, con-
17 sisting of 18 independent experts, reviewed China's
18 compliance with the International Covenant on Civil
19 and Political Rights with respect to Hong Kong. Ac-
20 cording to the session's chair, the Committee agreed
21 on "the need to ensure universal suffrage, which
22 means both the right to be elected as well as the
23 right to vote. The main concerns of Committee
24 members were focused on the right to stand for elec-
25 tions without unreasonable restrictions". Another

1 Committee member said that the “committee doesn’t
2 want candidates filtered. The problem is that Beijing
3 wants to vet candidates”.

4 (25) The Congressional-Executive Commission
5 on China’s 2015 Annual Report “observed develop-
6 ments raising concerns that the Chinese and Hong
7 Kong governments may have infringed on the rights
8 of the people of Hong Kong, including in the areas
9 of political participation and democratic reform,
10 press freedom, and freedom of assembly”.

11 (26) The Congressional-Executive Commission
12 on China’s 2016 Annual Report found that “the
13 growing influence of the Chinese central government
14 and communist party and suspected activity by Chi-
15 nese authorities in Hong Kong—notably the dis-
16 appearance, alleged abduction, and detention in
17 mainland China of five Hong Kong booksellers—
18 raised fears regarding Hong Kong’s autonomy with-
19 in China as guaranteed under the ‘one country, two
20 systems’ policy enshrined in the Basic Law, which
21 prohibits mainland Chinese authorities from inter-
22 fering in Hong Kong”.

23 (27) A Hong Kong Journalists Association
24 (HKJA) survey on press freedom found that 85 per-

1 cent of journalists believed press freedom had dete-
2 riorated in 2015.

3 (28) Hong Kong ranked 69th among 180 coun-
4 tries in Reporters Without Borders' 2016 World
5 Press Freedom Index, down eight places in just two
6 years and marking a significant decline from 2002,
7 when Hong Kong ranked 18th.

8 (29) Freedom House's 2015 Freedom of the
9 Press Report found a five-year decline in press free-
10 dom in Hong Kong marked by an increase in phys-
11 ical attacks against journalists, cyberattacks crip-
12 pling widely read news sites at politically sensitive
13 moments, and businesses withdrawing advertising
14 from outlets that were critical of Beijing and sup-
15 portive of prodemocracy protestors.

16 **SEC. 4. STATEMENT OF POLICY.**

17 It is the policy of the United States—

18 (1) to reaffirm the principles and objectives set
19 forth in the United States-Hong Kong Policy Act of
20 1992, namely that—

21 (A) the United States has “a strong inter-
22 est in the continued vitality, prosperity, and
23 stability of Hong Kong”;

1 (B) “support for democratization is a fun-
2 damental principle of United States foreign pol-
3 icy”;

4 (C) “the human rights of the people of
5 Hong Kong are of great importance to the
6 United States and are directly relevant to
7 United States interests in Hong Kong”;

8 (D) human rights “serve as a basis for
9 Hong Kong’s continued economic prosperity”;
10 and

11 (E) Hong Kong must remain sufficiently
12 autonomous from the People’s Republic of
13 China to justify a different treatment under a
14 particular law of the United States, or any pro-
15 vision thereof, from that accorded the People’s
16 Republic of China;

17 (2) to support the democratic aspirations of the
18 people of Hong Kong, as guaranteed to them by the
19 Joint Declaration, the Basic Law, the International
20 Covenant on Civil and Political Rights, and the Uni-
21 versal Declaration of Human Rights;

22 (3) to urge the Government of the People’s Re-
23 public of China to uphold its commitments to Hong
24 Kong, including allowing the people of Hong Kong
25 to rule Hong Kong with a high degree of autonomy

1 and without undue interference, and ensuring that
2 Hong Kong voters freely enjoy the right to elect the
3 Chief Executive and all members of the Hong Kong
4 Legislative Council by universal suffrage;

5 (4) to support the establishment by 2017 of a
6 genuine democratic option to freely and fairly nomi-
7 nate and elect the Chief Executive of Hong Kong,
8 and the establishment by 2020 of open and direct
9 democratic elections for all members of the Hong
10 Kong Legislative Council;

11 (5) to support the robust exercise by residents
12 of Hong Kong of the rights to free speech and the
13 press as guaranteed to them by the Basic Law and
14 the Joint Declaration;

15 (6) to ensure that all residents of Hong Kong
16 are afforded freedom from arbitrary or unlawful ar-
17 rest, detention, or imprisonment as guaranteed to
18 them by the Basic Law and the Joint Declaration;
19 and

20 (7) to draw international attention to any viola-
21 tions by the Government of the People's Republic of
22 China of the fundamental rights of residents of
23 Hong Kong and any encroachment upon the auton-
24 omy guaranteed to Hong Kong by the Basic Law
25 and the Joint Declaration.

1 **SEC. 5. REINSTATEMENT OF REPORTING REQUIREMENTS**
2 **RELATED TO UNITED STATES-HONG KONG**
3 **RELATIONS.**

4 (a) IN GENERAL.—Section 301 of the United States-
5 Hong Kong Policy Act of 1992 (22 U.S.C. 5731) is
6 amended—

7 (1) by striking “Not later than” and all that
8 follows through “the Secretary of State” and insert-
9 ing “Not later than 90 days after the date of the en-
10 actment of the Hong Kong Human Rights and De-
11 mocracy Act of 2016, and annually thereafter
12 through 2023,”;

13 (2) by striking “Speaker of the House of Rep-
14 resentatives” and inserting “chairman of the Com-
15 mittee on Foreign Affairs of the House of Rep-
16 resentatives”;

17 (3) in paragraph (7), by striking “; and” and
18 inserting a semicolon;

19 (4) in paragraph (8), by striking the period at
20 the end and inserting “; and”; and

21 (5) by adding at the end the following new
22 paragraph:

23 “(1) matters in which Hong Kong is given sep-
24 arate treatment under the laws of the United States
25 from that accorded to the People’s Republic of
26 China and in accordance with this Act.”.

1 (b) FORM.—The report required under section 301
2 of the United States-Hong Kong Policy Act of 1992 (22
3 U.S.C. 5731), as amended by subsection (a), should be
4 unclassified and made publicly available, including
5 through the Department of State’s public website.

6 **SEC. 6. TREATMENT OF HONG KONG UNDER UNITED**
7 **STATES LAW.**

8 Title II of the United States-Hong Kong Policy Act
9 of 1992 (22 U.S.C. 5721 et seq.) is amended by inserting
10 after section 202 the following new section:

11 **“SEC. 202. TREATMENT OF HONG KONG UNDER UNITED**
12 **STATES LAW.**

13 “(a) SECRETARY OF STATE CERTIFICATION RE-
14 QUIREMENT.—

15 “(1) IN GENERAL.—Not later than 90 days
16 after the date of the enactment of the Hong Kong
17 Human Rights and Democracy Act of 2016, and an-
18 nually thereafter, the Secretary of State shall certify
19 to Congress whether Hong Kong is sufficiently au-
20 tonomous to justify separate treatment different
21 from that accorded the People’s Republic of China
22 in any new laws, agreements, treaties, or arrange-
23 ments entered into between the United States and
24 Hong Kong after the date of the enactment of such
25 Act.

1 “(2) FACTOR FOR CONSIDERATION.—In making
2 a certification under paragraph (1), the Secretary of
3 State should consider the terms, obligations, and ex-
4 pectations expressed in the Joint Declaration with
5 respect to Hong Kong.

6 “(b) WAIVER AUTHORITY.—The Secretary of State
7 may waive the application of subsection (a) if the Sec-
8 retary—

9 “(1) determines that such a waiver is in the na-
10 tional security interests of the United States; and

11 “(2) on or before the date on which the waiver
12 takes effect, submits to the Committee on Foreign
13 Relations of the Senate and the Committee on For-
14 eign Affairs of the House of Representatives a notice
15 of and justification for the waiver.”.

16 **SEC. 7. IDENTIFICATION OF PERSONS RESPONSIBLE FOR**
17 **THE ABDUCTION OF CERTAIN BOOKSELLERS**
18 **AND JOURNALISTS IN HONG KONG AND FOR**
19 **OTHER ACTIONS TO SUPPRESS BASIC FREE-**
20 **DOMS IN HONG KONG.**

21 (a) IN GENERAL.—Not later than 180 days after the
22 date of the enactment of this Act, the President shall sub-
23 mit to the appropriate congressional committees a list of
24 each person that the President determines, based on cred-
25 ible information—

1 (1) is responsible for the surveillance, abduction,
2 tion, detention, abuse, or forced confession of Gui
3 Minhai, Lee Bo, Lin Rongji, Lu Bo, or Zhang
4 Zhiping, all of whom are involved in the operation
5 of the Mighty Current Publishing House based in
6 Hong Kong;

7 (2) is responsible for the surveillance, abduction,
8 tion, detention, abuse, or forced confession of Guo
9 Zhongxiao or Wang Jianmin, both of whom are in-
10 volved in the operation of magazine publications
11 based in Hong Kong; or

12 (3) is responsible for the surveillance, abduction,
13 tion, detention, abuse, or forced confession of any
14 other journalist, publisher, writer, bookseller, or
15 other resident in Hong Kong in connection with the
16 exercise by that individual of the right to freedom of
17 speech, freedom of the press, freedom of assembly,
18 freedom of association, and freedom of religion.

19 (b) UPDATES.—The President shall submit to the ap-
20 propriate congressional committees an update of the list
21 required by subsection (a) as new information becomes
22 available.

23 (c) FORM.—

24 (1) IN GENERAL.—The list required by sub-
25 section (a) shall be submitted in unclassified form.

1 (2) EXCEPTION.—The name of a person to be
2 included in the list required by subsection (a) may
3 be submitted in a classified annex only if the Presi-
4 dent—

5 (A) determines that it is vital for the na-
6 tional security interests of the United States to
7 do so;

8 (B) uses the annex in such a manner con-
9 sistent with congressional intent and the pur-
10 poses of this Act; and

11 (C) 15 days before submitting the name in
12 a classified annex, provides to the appropriate
13 congressional committees notice of, and a jus-
14 tification for, including or continuing to include
15 each person in the classified annex despite any
16 publicly available credible information indi-
17 cating that the person engaged in an activity
18 described in paragraph (1), (2), or (3) of sub-
19 section (a).

20 (3) CONSIDERATION OF DATA FROM OTHER
21 COUNTRIES AND NONGOVERNMENTAL ORGANIZA-
22 TIONS.—In preparing the list required by subsection
23 (a), the President shall consider information pro-
24 vided by the chairperson and ranking member of
25 each of the appropriate congressional committees

1 and credible data obtained by other countries and
2 nongovernmental organizations, including organiza-
3 tions inside the People’s Republic of China or Hong
4 Kong, that monitor the human rights abuses of the
5 Government of the People’s Republic of China or its
6 associates or agents.

7 (4) PUBLIC AVAILABILITY.—The unclassified
8 portion of the list required by subsection (a) shall be
9 made available to the public and published in the
10 Federal Register.

11 (d) REMOVAL FROM LIST.—A person may be re-
12 moved from the list required by subsection (a) if the Presi-
13 dent determines and reports to the appropriate congres-
14 sional committees not later than 15 days before the re-
15 moval of the person from the list that—

16 (1) credible information exists that the person
17 did not engage in the activity for which the person
18 was added to the list;

19 (2) the person has been prosecuted appro-
20 priately for the activity in which the person engaged;
21 or

22 (3) the person has credibly demonstrated a sig-
23 nificant change in behavior, has paid an appropriate
24 consequence for the activities in which the person
25 engaged, and has credibly committed to not engage

1 in the types of activities specified in paragraphs (1)
2 through (3) of subsection (a).

3 (e) REQUESTS BY CHAIRPERSON AND RANKING
4 MEMBER OF APPROPRIATE CONGRESSIONAL COMMIT-
5 TEES.—

6 (1) IN GENERAL.—Not later than 120 days
7 after receiving a written request from the chair-
8 person or ranking member of one of the appropriate
9 congressional committees with respect to whether a
10 person meets the criteria for being added to the list
11 required by subsection (a), the President shall sub-
12 mit a response to the chairperson and ranking mem-
13 ber of the committee which made the request with
14 respect to the status of the person.

15 (2) FORM.—The President may submit a re-
16 sponse required by paragraph (1) in classified form
17 if the President determines that it is vital for the
18 national security interests of the United States to do
19 so.

20 (3) REMOVAL.—If the President removes from
21 the list required by subsection (a) a person who has
22 been placed on the list at the request of the chair-
23 person and ranking member of one of the appro-
24 priate congressional committees, the President shall
25 provide the chairperson and ranking member with

1 any information that contributed to the removal de-
2 cision. The President may submit such information
3 in classified form if the President determines that it
4 is vital for the national security interests of the
5 United States to do so.

6 (f) NONAPPLICABILITY OF CONFIDENTIALITY RE-
7 QUIREMENT WITH RESPECT TO VISA RECORDS.—The
8 President shall publish the list required by subsection (a)
9 without regard to the requirements of section 222(f) of
10 the Immigration and Nationality Act (8 U.S.C. 1202(f))
11 with respect to confidentiality of records pertaining to the
12 issuance or refusal of visas or permits to enter the United
13 States.

14 **SEC. 8. INADMISSIBILITY OF CERTAIN ALIENS AND FAMILY**
15 **MEMBERS.**

16 (a) IN GENERAL.—Section 212(a)(2)(F) of the Im-
17 migration and Nationality Act (8 U.S.C. 1182(a)(2)(F))
18 is amended to read as follows:

19 “(F) ABDUCTIONS OF CERTAIN JOURNAL-
20 ISTS.—Any alien described in section 7(a) of
21 the Hong Kong Human Rights and Democracy
22 Act of 2016 is inadmissible.”.

23 (b) CURRENT VISAS REVOKED.—The issuing con-
24 sular officer, the Secretary of State, or the Secretary of
25 Homeland Security (or a designee of one of such Secre-

1 taries) shall revoke any visa or other entry documentation
2 issued to any person who is included on the list required
3 under section 7(a) that is an alien, regardless of when
4 issued. The revocations shall take effect immediately and
5 shall automatically cancel any other valid visa or entry
6 documentation that is in the alien's possession.

7 (c) WAIVER FOR NATIONAL SECURITY INTERESTS.—

8 (1) IN GENERAL.—The Secretary of State may
9 waive application of section 212(a)(2)(F) of the Im-
10 migration and Nationality Act, as amended by sub-
11 section (a), or subsection (b) with respect to an
12 alien, if—

13 (A) the Secretary determines that such a
14 waiver—

15 (i) is necessary to permit the United
16 States to comply with the Agreement be-
17 tween the United Nations and the United
18 States of America regarding the Head-
19 quarters of the United Nations, signed
20 June 26, 1947, and entered into force No-
21 vember 21, 1947, or other applicable inter-
22 national obligations of the United States;
23 or

24 (ii) is vital for the national security
25 interests of the United States; and

1 (B) before granting such a waiver, the Sec-
2 retary provides to the appropriate congressional
3 committees notice of, and a justification for, the
4 waiver.

5 (2) TIMING FOR CERTAIN WAIVERS.—Notifica-
6 tion under subparagraph (B) of paragraph (1) shall
7 be made not later than 15 days before granting a
8 waiver under such paragraph if the Secretary grants
9 such waiver under subparagraph (A)(ii) of such
10 paragraph.

11 (d) REGULATORY AUTHORITY.—The Secretary of
12 State shall prescribe such regulations as are necessary to
13 carry out this section.

14 **SEC. 9. TREATMENT OF HONG KONG APPLICANTS FOR**
15 **VISAS TO STUDY OR WORK IN THE UNITED**
16 **STATES.**

17 Title II of the United States-Hong Kong Policy Act
18 of 1992 (22 U.S.C. 5721 et seq.) is amended by inserting
19 after section 202 the following new section:

20 **“SEC. 202a. TREATMENT OF HONG KONG APPLICANTS FOR**
21 **VISAS TO STUDY OR WORK IN THE UNITED**
22 **STATES.**

23 “(a) STATEMENT OF POLICY.—Notwithstanding all
24 other provisions of law, applications for visas to enter,
25 study, or work in the United States, submitted by other-

1 wise qualified applicants who were resident in Hong Kong
2 in 2014, shall not be denied on the basis of the applicant’s
3 arrest, detention, or other adverse government action
4 taken as a result of the applicant’s participation in non-
5 violent protest activities related to Hong Kong’s electoral
6 processes.

7 “(b) IMPLEMENTATION.—The Secretary of State
8 shall take such steps as necessary to ensure that consular
9 officers shall be aware of this provision of law and shall
10 receive appropriate training and support in order to en-
11 sure that it is carried out in such a way that affected indi-
12 viduals shall not face discrimination or unnecessary delay
13 in the processing of their visa applications, including—

14 “(1) providing specialized training for consular
15 officers posted to Hong Kong, Beijing, Guangzhou,
16 and Macau;

17 “(2) instructing the United States Consulate in
18 Hong Kong to maintain an active list of individuals
19 whom it knows to have been detained, arrested or
20 otherwise targeted by Hong Kong or People’s Re-
21 public of China authorities or their intermediaries as
22 a result of their participation in the 2014 protests,
23 in order to facilitate the cross-checking of visa appli-
24 cations for Hong Kong applicants;

1 “(3) amending the physical and on-line versions
2 of the visa application as necessary in order to en-
3 sure relevant applicants are able to reference this
4 provision of law in their explanatory materials; and

5 “(4) instructing personnel at the United States
6 Consulate in Hong Kong to engage with relevant in-
7 dividuals in the Hong Kong community in order to
8 proactively inform them that they will not face dis-
9 crimination in applying for a visa to the United
10 States due to any adverse action taken against them
11 by the authorities as a result of their participation
12 in the 2014 protests.

13 “(c) COOPERATION WITH LIKE-MINDED COUN-
14 TRIES.—The Secretary of State or his or her designee
15 shall contact appropriate representatives of other demo-
16 cratic countries, particularly those who receive a large
17 number of applicants for student and employment visas
18 from Hong Kong, to—

19 “(1) inform them of the United States policy
20 regarding arrests for participation in nonviolent pro-
21 tests in Hong Kong;

22 “(2) encourage them to take similar steps to
23 ensure the rights of nonviolent protesters are pro-
24 tected from discrimination due to the actions of the

1 Hong Kong and People’s Republic of China authori-
2 ties; and

3 “(3) offer, as appropriate, to share information
4 regarding the execution of this policy, including in-
5 formation regarding persons eligible for relief under
6 this provision.”.

7 **SEC. 10. FINANCIAL MEASURES.**

8 (a) FREEZING OF ASSETS.—The President shall ex-
9 ercise all powers granted by the International Emergency
10 Economic Powers Act (50 U.S.C. 1701 et seq.) (except
11 that the requirements of section 202 of such Act (50
12 U.S.C. 1701) shall not apply) to the extent necessary to
13 freeze and prohibit all transactions in all property and in-
14 terests in property of a person who is on the list required
15 by section 7(a) of this Act if such property and interests
16 in property are in the United States, come within the
17 United States, or are or come within the possession or
18 control of a United States person.

19 (b) WAIVER FOR NATIONAL SECURITY INTERESTS.—
20 The Secretary of the Treasury may waive the application
21 of subsection (a) if the Secretary determines that such a
22 waiver is vital for the national security interests of the
23 United States. Not later than 15 days before granting
24 such a waiver, the Secretary shall provide to the appro-

1 p r i a t e c o n g r e s s i o n a l c o m m i t t e e s n o t i c e o f , a n d a j u s t i f i c a -
2 t i o n f o r , t h e w a i v e r .

3 (c) E N F O R C E M E N T . —

4 (1) P E N A L T I E S . — A p e r s o n t h a t v i o l a t e s , a t -
5 t e m p t s t o v i o l a t e , c o n s p i r e s t o v i o l a t e , o r c a u s e s a
6 v i o l a t i o n o f t h i s s e c t i o n o r a n y r e g u l a t i o n , l i c e n s e , o r
7 o r d e r i s s u e d t o c a r r y o u t t h i s s e c t i o n s h a l l b e s u b j e c t
8 t o t h e p e n a l t i e s s e t f o r t h i n s u b s e c t i o n s (b) a n d (c)
9 o f s e c t i o n 206 o f t h e I n t e r n a t i o n a l E m e r g e n c y E c o -
10 n o m i c P o w e r s A c t (50 U . S . C . 1705) t o t h e s a m e e x -
11 t e n t a s a p e r s o n t h a t c o m m i t s a n u n l a w f u l a c t d e -
12 s c r i b e d i n s u b s e c t i o n (a) o f s u c h s e c t i o n .

13 (2) R E Q U I R E M E N T S F O R F I N A N C I A L I N S T I T U -
14 T I O N S . — N o t l a t e r t h a n 120 d a y s a f t e r t h e d a t e o f
15 t h e e n a c t m e n t o f t h i s A c t , t h e S e c r e t a r y o f t h e
16 T r e a s u r y s h a l l p r e s c r i b e o r a m e n d r e g u l a t i o n s a s
17 n e e d e d t o r e q u i r e e a c h f i n a n c i a l i n s t i t u t i o n t h a t i s a
18 U n i t e d S t a t e s p e r s o n a n d h a s w i t h i n i t s p o s s e s s i o n
19 o r c o n t r o l a s s e t s t h a t a r e p r o p e r t y o r i n t e r e s t s i n
20 p r o p e r t y o f a p e r s o n t h a t i s o n t h e l i s t r e q u i r e d b y
21 s e c t i o n 7(a) i f s u c h p r o p e r t y a n d i n t e r e s t s i n p r o p -
22 e r t y a r e i n t h e U n i t e d S t a t e s t o c e r t i f y t o t h e S e c -
23 r e t a r y t h a t , t o t h e b e s t o f t h e k n o w l e d g e o f t h e f i -
24 n a n c i a l i n s t i t u t i o n , t h e f i n a n c i a l i n s t i t u t i o n h a s f r o -
25 z e n a l l a s s e t s w i t h i n t h e p o s s e s s i o n o r c o n t r o l o f t h e

1 financial institution that are required to be frozen
2 pursuant to subsection (a).

3 (3) NOTIFICATION TO CONGRESS.—Not later
4 than 10 days before the promulgation of regulations
5 under paragraph (2), the President shall notify the
6 appropriate congressional committees of the pro-
7 posed regulations and the provisions of this Act and
8 the amendments made by this Act that the regula-
9 tions are implementing.

10 (d) REGULATORY AUTHORITY.—The Secretary of the
11 Treasury shall issue such regulations, licenses, and orders
12 as are necessary to carry out this section.

13 **SEC. 11. REPORT TO CONGRESS.**

14 Not later than one year after the date of the enact-
15 ment of this Act, and not less frequently than annually
16 thereafter, the Secretary of State and the Secretary of the
17 Treasury shall submit to the appropriate congressional
18 committees a report on—

19 (1) the actions taken to carry out this Act, in-
20 cluding—

21 (A) the number of persons added to or re-
22 moved from the list required by section 7(a)
23 during the year preceding the report, the dates
24 on which such persons have been added or re-

1 moved, and the reasons for adding or removing
2 such persons; and

3 (B) if few or no such persons have been
4 added to that list during that year, the reasons
5 for not adding more such persons to the list;
6 and

7 (2) efforts by the executive branch to encourage
8 the governments of other countries to impose sanc-
9 tions that are similar to the sanctions imposed under
10 this Act.

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