

AMENDMENT TO RULES COMMITTEE PRINT 117-

31

OFFERED BY MR. CRENSHAW OF TEXAS

Add at the end the following:

1 **DIVISION M—OTHER MATTERS**

2 **SEC. 120001. AMENDMENT TO FOREIGN SOVEREIGN IMMUN-**
3 **ITIES ACT TO HOLD THE CHINESE COMMUNIST PARTY ACCOUNTABLE FOR INFECT-**
4 **MUNIST PARTY ACCOUNTABLE FOR INFECT-**
5 **ING AMERICANS.**

6 (a) FINDINGS.—Congress finds the following:

7 (1) The Chinese Communist Party covered up
8 the existence and downplayed the seriousness of
9 SARS-CoV-2, hereinafter referred to as COVID-
10 19, at least as early as December 2019.

11 (2) Chinese government officials engaged in a
12 campaign to silence and delegitimize doctors—in-
13 cluding Dr. Li Wenliang—who were warning their
14 colleagues and others about COVID-19.

15 (3) Chinese government officials ordered the de-
16 struction of laboratory samples and research regard-
17 ing COVID-19 in January 2020.

18 (4) Chinese government officials have detained
19 or otherwise silenced researchers, journalists, and

1 citizens who attempted to share information that
2 could have proven unflattering to the Chinese gov-
3 ernment's response to the COVID-19 outbreak.

4 (5) Chinese government officials have expelled
5 American journalists who were covering the COVID-
6 19 outbreak in China.

7 (6) Chinese government officials have attempted
8 to censor or destroy academic research into COVID-
9 19 and its origins that might disagree with the offi-
10 cial positions of the Chinese government.

11 (7) Chinese government officials have inten-
12 tionally underreported or altered official numbers of
13 COVID-19 infections and deaths in China, leading
14 world health experts to make flawed analyses that
15 severely underestimated the nature and seriousness
16 of COVID-19.

17 (8) Academic studies have shown that, had ap-
18 propriate interventions occurred to stop the spread
19 of COVID-19 even just weeks earlier, the spread of
20 COVID-19 would have been severely curtailed.

21 (9) The cover-up of COVID-19 by the Chinese
22 government has caused significant economic harm in
23 the United States and around the world.

1 (10) The cover-up of COVID–19 by the Chinese
2 government has caused significant death and injury
3 in the United States and around the world.

4 (11) The cover-up of COVID–19 by the Chinese
5 government is, at minimum, grossly negligent behav-
6 ior causing significant injury.

7 (b) PURPOSE.—The purpose of this section is to pro-
8 vide civil litigants with the broadest possible basis, con-
9 sistent with the Constitution of the United States, to seek
10 relief against persons, entities, and foreign countries,
11 wherever acting and wherever they may be found, that are
12 responsible for, or complicit in ordering, controlling, or
13 otherwise directing acts intended to deliberately conceal
14 or distort the existence or nature of COVID–19, if such
15 acts are found to have likely contributed to the global
16 COVID–19 pandemic.

17 (c) RESPONSIBILITY OF FOREIGN STATES FOR DE-
18 LIBERATE CONCEALMENT OR DISTORTING INFORMATION
19 ABOUT INTERNATIONAL PUBLIC HEALTH EMER-
20 GENCIES.—

21 (1) IN GENERAL.—Chapter 97 of title 28,
22 United States Code, is amended by inserting after
23 section 1605B the following new section:

1 **“SEC. 1605C. RESPONSIBILITY OF FOREIGN STATES FOR**
2 **DELIBERATE CONCEALMENT OR DISTORTING**
3 **INFORMATION ABOUT INTERNATIONAL PUB-**
4 **LIC HEALTH EMERGENCIES OF INTER-**
5 **NATIONAL CONCERN.**

6 “(a) RESPONSIBILITY OF FOREIGN STATE.—A for-
7 eign state shall not be immune from the jurisdiction of
8 the courts of the United States in any case in which money
9 damages are sought against a foreign state for physical
10 injury or death, or injury to property or economic inter-
11 ests, occurring in the United States and caused by—

12 “(1) the spread of COVID–19; and

13 “(2) a tortious act or acts, including acts in-
14 tended to deliberately conceal or distort the existence
15 or nature of COVID–19, of the foreign state, or of
16 any official, employee, or agent of that foreign state
17 while acting within the scope of his or her office,
18 employment, or agency, regardless where the
19 tortious act or acts of the foreign state occurred.

20 “(b) EXCLUSIVE JURISDICTION.—The United States
21 District Court for the Southern District of New York, the
22 United States District Court for the Northern District of
23 California, the United States District Court for the North-
24 ern District of Illinois, and the United States District
25 Court for the Southern District of Texas shall have origi-
26 nal and exclusive jurisdiction over all actions in which a

1 foreign state is subject to the jurisdiction of a court of
2 the United States under this section. Appellate jurisdic-
3 tion for such actions shall be exclusively reserved to the
4 United States District Court of Appeals for the Federal
5 Circuit.

6 “(c) STAY OF ACTIONS PENDING FOREIGN STATE
7 NEGOTIATIONS.—

8 “(1) INTERVENTION.—The Attorney General
9 may intervene in any action in which a foreign state
10 is subject to the jurisdiction of a court of the United
11 States under this section for the purpose of seeking
12 a stay of the civil action, in whole or in part.

13 “(2) STAY.—

14 “(A) IN GENERAL.—A court of the United
15 States shall stay a proceeding under this sec-
16 tion against a foreign state or any official, em-
17 ployee, or agent of the foreign state, if the Sec-
18 retary of State certifies that the United States
19 is engaged in good faith discussions with the
20 foreign state defendant, or any other defendant,
21 with respect to the resolution of a claim against
22 such a defendant.

23 “(B) DURATION.—

1 “(i) IN GENERAL.—A stay under this
2 section may be granted for not more than
3 180 days.

4 “(ii) EXTENSION.—

5 “(I) IN GENERAL.—The Attorney
6 General may petition the court for an
7 extension of the stay for additional
8 180-day periods.

9 “(II) RECERTIFICATION.—A
10 court may grant an extension under
11 clause (I) if the Secretary of State re-
12 certifies that the United States re-
13 mains engaged in good faith discus-
14 sions with the foreign state defendant
15 or any other defendant concerning the
16 resolution of a claim against the for-
17 eign state or any official, employee, or
18 agent of the foreign state, as to whom
19 a stay of claims is sought.

20 “(d) DISMISSAL OF ACTIONS FOLLOWING FOREIGN
21 STATE AGREEMENT.—

22 “(1) INTERVENTION.—The Attorney General
23 may intervene in any action in which a foreign state
24 is subject to the jurisdiction of a court of the United

1 States under this section for the purpose of seeking
2 the dismissal of the case.

3 “(2) DISMISSAL WITH PREJUDICE.—A court of
4 the United States may dismiss with prejudice a pro-
5 ceeding under this section against a foreign state or
6 any official, employee, or agent of the foreign state
7 if the Secretary of State certifies that the United
8 States and the foreign state have entered into an
9 agreement with respect to the resolution of a claim
10 against such a defendant, regardless of whether the
11 plaintiff is a party to such agreement or consents to
12 the dismissal.

13 “(e) SEVERABILITY.—If any provision of this section
14 or any amendment made by this section, or the application
15 of a provision or amendment to any person or cir-
16 cumstance, is held to be invalid, the remainder of this sec-
17 tion and the amendments made by this section, and the
18 application of the provisions and amendments to any other
19 person not similarly situated or to other circumstances,
20 shall not be affected by the holding.

21 “(f) RULE OF CONSTRUCTION.—A foreign state shall
22 not be subject to the jurisdiction of the courts of the
23 United States under this section on the basis of a tortious
24 act or acts that constitute mere negligence.

1 “(g) APPLICATION DATE.—The amendments made
2 by this section shall apply to a civil action—

3 “(1) pending on, or commenced on or after, the
4 date of enactment of the ‘America COMPETES Act
5 of 2022’; and

6 “(2) arising out of an injury to a person from
7 COVID–19 on or after January 1, 2020, or arising
8 out of an injury to property or business during the
9 pendency of the National Emergency Concerning the
10 Novel Coronavirus Disease (COVID–19) Outbreak
11 declared by the President on March 13, 2020, under
12 the National Emergencies Act (50 U.S.C. 1601 et
13 seq.).

14 “(h) DEFINITION.—In this section, the term
15 ‘COVID–19’ has the meaning given that term in section
16 2102 of the Coronavirus Aid, Relief, and Economic Secu-
17 rity Act (Public Law 116–136).”.

18 (2) TECHNICAL AND CONFORMING AMEND-
19 MENTS.—

20 (A) TABLE OF SECTIONS.—The table of
21 sections for chapter 97 of title 28, United
22 States Code, is amended by inserting after the
23 item relating to section 1605B the following:

“1605C. Responsibility of foreign states for deliberate concealment or distorting
information about international public health emergencies of
international concern.”.

1 (B) CONFORMING AMENDMENT.—Section
2 1605(g)(1)(A) of title 28, United States Code,
3 is amended by striking “or section 1605B” and
4 inserting “, section 1605B, or section 1605C”.

5 (3) EFFECTIVE DATE.—The amendments made
6 by this section shall take effect on the date of the
7 enactment of the “America COMPETES Act of
8 2022”.

