

AMENDMENT TO RULES COMMITTEE PRINT 117–

54

OFFERED BY MRS. WALORSKI OF INDIANA

Add at the end of title LVIII of division E the following:

1 **SEC. 58** ____. **RESPONSIBILITY OF FOREIGN STATES.**

2 (a) **RESPONSIBILITY.**—Chapter 97 of title 28, United
3 States Code, is amended by inserting after section 1605B
4 the following:

5 **“§ 1605C. Responsibility of Foreign States for Death**
6 **or Injury from International Fentanyl**
7 **Trafficking in the United States.**

8 “(a) **RESPONSIBILITY OF FOREIGN STATES.**—A for-
9 eign state shall not be immune from the jurisdiction of
10 the courts of the United States in any case in which money
11 damages are sought against a foreign state for death or
12 physical injury to a person caused by fentanyl use or expo-
13 sure that occurs in the United States following any reck-
14 less action of a covered person, that caused or substan-
15 tially contributed to the unlawful trafficking of fentanyl
16 from the foreign state into and within the United States.

17 “(b) **COVERED PERSON DEFINED.**—In this section,
18 the term ‘covered person’ means—

1 “(1) an alien who is unlawfully present in the
2 United States;

3 “(2) a foreign opioid trafficker, as identified in
4 the report submitted under section 7211(a) of the
5 Fentanyl Sanctions Act; or

6 “(3) a significant foreign narcotics trafficker,
7 as identified in the report submitted under sub-
8 section (b) or (h)(1) of section 804 of the Foreign
9 Narcotics Kingpin Designation Act.

10 “(c) RULE OF CONSTRUCTION.—A foreign state shall
11 not be subject to the jurisdiction of the courts of the
12 United States under subsection (a) on the basis of an
13 omission or act that constitutes mere negligence.

14 “(d) EXCLUSIVE JURISDICTION.—The courts of the
15 United States shall have exclusive jurisdiction in any ac-
16 tion in which a foreign state is subject to the jurisdiction
17 of a court of the United States under subsection (a).

18 “(e) INTERVENTION.—The Attorney General may in-
19 tervene in any action in which a foreign state is subject
20 to the jurisdiction of a court of the United States under
21 subsection (a) for the purpose of seeking a stay of the
22 civil action, in whole or in part.

23 “(f) STAY.—

24 “(1) IN GENERAL.—A court of the United
25 States may stay a proceeding against a foreign state

1 if the Secretary of State certifies that the United
2 States is engaged in good faith discussions with the
3 foreign state defendant concerning the resolution of
4 the claims against the foreign state, or any other
5 parties as to whom a stay of claims is sought. In ex-
6 ercising its discretion under this subsection, the
7 court shall balance the interests of the United States
8 with the interests of the plaintiffs in a timely review
9 of their claims.

10 “(2) DURATION.—

11 “(A) IN GENERAL.—A stay under this sec-
12 tion may be granted for not more than 180
13 days.

14 “(B) EXTENSION.—

15 “(i) IN GENERAL.—The Attorney
16 General may petition the court for an ex-
17 tension of the stay for additional periods
18 not to exceed 180 days.

19 “(ii) RECERTIFICATION.—A court
20 may grant an extension under subpara-
21 graph (A) if the Secretary of State recer-
22 tifies that the United States remains en-
23 gaged in good faith discussions with the
24 foreign state defendant concerning the res-
25 olution of the claims against the foreign

1 state, or any other parties as to whom a
2 stay of claims is sought. In choosing
3 whether to grant an extension, the court
4 shall balance the interests of the United
5 States with the interests of the plaintiffs in
6 a timely review of their claims.

7 “(g) ENFORCEMENT BY STATE ATTORNEYS GEN-
8 ERAL.—Any State, on its own behalf or on behalf of the
9 citizens or residents of the State, may bring a civil action
10 in a district court of the United States under the cir-
11 cumstances described in subsection (a). Nothing in this
12 Act may be construed to prevent a State from exercising
13 its powers under State law.”.

14 (b) APPLICABILITY.—Section 1605C of title 28,
15 United States Code, as added by such subsection (a), shall
16 apply to any conduct occurring before, on, or after the
17 date of enactment of this Act.

18 (c) TECHNICAL AND CONFORMING AMENDMENT.—
19 The table of sections for chapter 97 of title 28, United
20 States Code, is amended by inserting after the item relat-
21 ing to section 1605B the following:

“1605C. Responsibility of Foreign States for Death or Injury from International
Fentanyl Trafficking in the United States.”.

