

110TH CONGRESS
2^D SESSION

H. R. 6146

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 29 (legislative day, SEPTEMBER 17), 2008

Received

AN ACT

To amend title 28, United States Code, to prohibit recognition and enforcement of foreign defamation judgments.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. FINDINGS; PURPOSE.**

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

3 (1) The first amendment of the Constitution of
4 the United States prohibits the abridgment of free-
5 dom of speech.

6 (2) Freedom of speech is fundamental to the
7 values of American democracy.

8 (3) In light of the constitutional protection our
9 Nation affords to freedom of speech, the Supreme
10 Court has modified the elements of the common law
11 tort of defamation to provide more protection for de-
12 fendants than would be available at common law, in-
13 cluding providing special protections for political
14 speech.

15 (4) The courts of other countries, including
16 those that otherwise share our Nation's common law
17 and due process traditions, are not constrained by
18 the first amendment and thus may provide less pro-
19 tection to defamation defendants than our Constitu-
20 tion requires.

21 (5) While our Nation's courts will generally en-
22 force foreign judgments as a matter of comity, com-
23 ity does not require that courts enforce foreign judg-
24 ments that are repugnant to our Nation's funda-
25 mental constitutional values, in particular its strong
26 protection of the right to freedom of speech.

1 (6) Our Nation’s courts should only enforce for-
2 eign judgments as a matter of comity when such for-
3 eign judgments are consistent with the right to free-
4 dom of speech.

5 (b) PURPOSE.—The purpose of this Act is to protect
6 the right to freedom of speech under the first amendment
7 to the Constitution of the United States from the poten-
8 tially weakening effects of foreign judgments concerning
9 defamation.

10 **SEC. 2. RECOGNITION OF FOREIGN DEFAMATION JUDG-**
11 **MENTS.**

12 (a) IN GENERAL.—Part VI of title 28, United States
13 Code, is amended by adding at the end the following:

14 **“CHAPTER 181—FOREIGN JUDGMENTS**

 “Sec.

 “4101. Recognition of foreign defamation judgments.

15 **“§ 4101. Recognition of foreign defamation judgments**

16 “(a) FIRST AMENDMENT CONSIDERATIONS.—Not-
17 withstanding any other provision of Federal or State law,
18 a domestic court shall not recognize or enforce a foreign
19 judgment for defamation that is based upon a publication
20 concerning a public figure or a matter of public concern
21 unless the domestic court determines that the foreign
22 judgment is consistent with the first amendment to the
23 Constitution of the United States.

24 “(b) DEFINITIONS.—For purposes of this section:

1 “(1) DOMESTIC COURT.—The term ‘domestic
2 court’ means a State court or a Federal court.

3 “(2) FOREIGN COURT.—The term ‘foreign
4 court’ means a court, administrative body, or other
5 tribunal of a foreign country.

6 “(3) FOREIGN JUDGMENT.—The term ‘foreign
7 judgment’ means a final judgment rendered by a
8 foreign court.”.

9 (b) CLERICAL AMENDMENT.—The table of chapters
10 for part VI of title 28, United States Code, is amended
11 by adding at the end the following:

“181. Foreign Judgments 4101”.

Passed the House of Representatives September 27,
2008.

Attest: LORRAINE C. MILLER,
Clerk.