

115TH CONGRESS
2D SESSION

H. R. 6095

To prohibit the boycotting of countries friendly to the United States, and
for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 13, 2018

Mr. DESANTIS (for himself and Mr. GOODLATTE) introduced the following bill; which was referred to the Committee on Foreign Affairs, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To prohibit the boycotting of countries friendly to the United States, and for other purposes.

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 “Export Administration
5 Anti-Discrimination Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

1 (1) The ability of United States citizens to en-
2 gage in international commerce is a fundamental
3 concern of United States policy.

4 (2) It is important to the national interests of
5 the United States that both the private sector and
6 the Federal Government place a high priority on en-
7 couraging international trade, consistent with the
8 economic, security, and foreign policy objectives of
9 the United States.

10 (3) It is in the best interest of the United
11 States to protect countries friendly to the United
12 States and United States persons residing, oper-
13 ating, or doing business in such countries from re-
14 strictive trade practices or boycotts.

15 (4) Boycotts against friendly countries and
16 their citizens, or against United States companies
17 doing business with such countries or citizens, do
18 not make for effective business decisionmaking, pre-
19 vent a business from making the best use of the re-
20 sources available to it, and should further be op-
21 posed as discriminatory.

22 (5) More than \$45,000,000,000 in goods and
23 services is traded between Israel and the United
24 States annually, in addition to roughly

1 \$10,000,000,000 per year in United States foreign
2 direct investment in Israel.

3 (6) Fellow democratic countries, such as Israel
4 and other allied countries, are vital partners in the
5 global pursuit of civil and human rights, including
6 the protection of free speech.

7 (7) The enactment of legislative prohibitions
8 against discrimination in the commercial context or
9 by federally funded programs, including academic in-
10 stitutions, is consistent with the United States Con-
11 stitution.

12 (8) Attempts to single out Israel and its citi-
13 zens, or other allied countries and their citizens, for
14 discriminatory boycotts violate fundamental prin-
15 ciples of academic freedom.

16 **SEC. 3. STATEMENT OF POLICY.**

17 It shall be the policy of the United States—

18 (1) to oppose restrictive trade practices or boy-
19 cotts against other countries friendly to the United
20 States or against any United States person; and

21 (2) to require United States persons engaged in
22 business anywhere to refuse to take actions, includ-
23 ing furnishing information or supporting restrictive
24 trade practices or boycotts, against a country friend-

1 ly to the United States or against any United States
2 person.

3 **SEC. 4. PROHIBITION ON BOYCOTTING FRIENDLY COUN-**
4 **TRIES.**

5 (a) PROHIBITIONS.—

6 (1) IN GENERAL.—No United States person,
7 with respect to the activities of such person in the
8 interstate or foreign commerce of the United States,
9 may knowingly take or agree to take any of the fol-
10 lowing actions in a manner that complies with, fur-
11 thers, or supports any boycott against a boycotted
12 country, other than a country with respect to which
13 the United States has imposed sanctions:

14 (A) Refusing, or requiring any other per-
15 son to refuse, to do business with or in the boy-
16 cotted country, with any business concern orga-
17 nized under the laws of the boycotted country,
18 with any national or resident of the boycotted
19 country, or with any other person, pursuant to
20 an agreement with, a requirement of, or a re-
21 quest from or on behalf of, a boycotting entity.

22 (B) Refusing or requiring any other person
23 to refuse to employ, or otherwise discriminating
24 against, any person on the basis of national ori-

1 gin of that person or of any owner, officer, di-
2 rector, or employee of such person.

3 (C) Furnishing information with respect to
4 the national origin of any person or of any
5 owner, officer, director, or employee of such
6 person in a manner that enables a boycotting
7 entity to conduct a commercial boycott.

8 (D) Furnishing information about whether
9 any person has, had, or proposes to have any
10 business relationship (including a relationship
11 by way of sale, purchase, legal or commercial
12 representation, shipping or other transport, in-
13 surance, investment, or supply) with or in the
14 boycotted country, with any business concern
15 organized under the laws of the boycotted coun-
16 try, or with any national or resident of the boy-
17 cotted country.

18 (E) Furnishing information about whether
19 any person is a member of, has made contribu-
20 tion to, or is otherwise associated with or in-
21 volved in the activities of any charitable or fra-
22 ternal organization which supports the boy-
23 cotted country.

24 (F) Establishing and acting on a formal or
25 official policy of refusing to deal, in any man-

1 ner, with an academic institution or scholar on
2 the basis of the connection of such institution
3 or scholar with the boycotted country.

4 (G) Paying, honoring, confirming, or oth-
5 erwise implementing a letter of credit which
6 contains any condition or requirement compli-
7 ance with which requires furnishing information
8 or otherwise acting in any manner described in
9 subparagraphs (A) through (F).

10 (2) RULE OF CONSTRUCTION WITH RESPECT TO
11 ANTITRUST AND CIVIL RIGHTS LAWS.—Nothing in
12 this section may be construed to supersede or limit
13 the operation of the antitrust or civil rights laws of
14 the United States, or to limit the rights guaranteed
15 to any person by the First Amendment to the
16 United States Constitution with respect to the free-
17 doms of speech and expression.

18 (b) PREEMPTION.—The provisions of this section and
19 any regulations issued pursuant to this section shall pre-
20 empt any law, rule, or regulation of any of the several
21 States or the District of Columbia, or any of the territories
22 or possessions of the United States, or of any govern-
23 mental subdivision thereof, to the extent that such law,
24 rule, or regulation pertains to participation in, compliance
25 with, implementation of, or the furnishing of information

1 regarding restrictive trade practices or boycotts fostered
2 or imposed by foreign countries against other countries
3 or called for by a boycotting entity.

4 **SEC. 5. PENALTIES.**

5 (a) INTENTIONAL VIOLATIONS.—

6 (1) IN GENERAL.—Whoever intentionally vio-
7 lates, or conspires or attempts to violate, any provi-
8 sion of section 4—

9 (A) in the case of an individual, shall be
10 fined not more than \$250,000, or imprisoned
11 not more than 10 years, or both; or

12 (B) shall be fined not more than five times
13 the value of the transaction involved or
14 \$1,000,000, whichever is greater.

15 (2) ESTABLISHMENT OF INTENT.—The absence
16 of a business relationship with or in the boycotted
17 country may not be construed to establish, without
18 more, the intent required for a violation under this
19 subsection.

20 (b) KNOWING VIOLATIONS.—

21 (1) IN GENERAL.—Whoever knowingly violates,
22 or conspires or attempts to violate, any provision of
23 section 4 shall be fined not more than five times the
24 value of the transaction involved or \$50,000, which-

1 ever is greater, imprisoned not more than 5 years,
2 or both.

3 (2) APPLICABILITY.—A person may be found to
4 knowingly violate a provision of section 4 if the per-
5 son allows an agent or employee of such person to
6 violate any provision of section 4 where the person
7 has actual knowledge of such violation by such em-
8 ployee.

9 (c) INSTITUTIONS OF HIGHER EDUCATION.—

10 (1) IN GENERAL.—Except as provided in para-
11 graph (2), an institution of higher education may
12 not receive Federal funds if the Secretary of Com-
13 merce determines, and notifies such institution, that
14 the institution has violated any provision of a regula-
15 tion issued pursuant to section 4.

16 (2) EXCEPTION.—The prohibition under para-
17 graph (1) shall not apply with respect to Federal
18 funds made available under title IV of the Higher
19 Education Act of 1965 (20 U.S.C. 1070 et seq.).

20 (3) WAIVER.—

21 (A) IN GENERAL.—The Secretary may,
22 upon request from an institution of higher edu-
23 cation that receives a notification under para-
24 graph (1), waive the application of the prohibi-
25 tion under paragraph (1) to such institution.

1 (B) **TIMELY CONSIDERATION.**—The Sec-
2 retary may only consider a request for a waiver
3 pursuant to subparagraph (A) that is received
4 not later than 30 days after the receipt of the
5 applicable notification.

6 (4) **RESTORATION OF ELIGIBILITY.**—A prohibi-
7 tion under paragraph (1) shall cease to apply with
8 respect to an institution of higher education begin-
9 ning on the date on which the Secretary determines
10 that such institution has ceased such violation.

11 (5) **INSTITUTION OF HIGHER EDUCATION.**—In
12 this subsection, the term “institution of higher edu-
13 cation” has the meaning given such term in section
14 102 of the Higher Education Act of 1965 (20
15 U.S.C. 1002).

16 (d) **CENTRALIZED COMPLAINT MECHANISM.**—Not
17 later than 1 year after the date of the enactment of this
18 Act, the Secretary of Commerce shall establish procedures
19 to allow any person to complain of a violation of section
20 4 of this Act by a United States person, and to refer such
21 complaints to appropriate law enforcement entities.

22 **SEC. 6. PRIVATE RIGHT OF ACTION.**

23 (a) **RIGHT TO BRING ACTION IN FEDERAL COURT.**—
24 Any person who suffers injury to property or business as
25 a result of a violation of section 4 or any regulation issued

1 pursuant to such section may bring an action in the appro-
2 priate district court of the United States.

3 (b) DAMAGES; RELIEF.—In an action under this sec-
4 tion, the court may—

5 (1) award damages, in an amount not to exceed
6 three times the value of the injury to the person
7 bringing the action, and may additionally award at-
8 torneys' fees and costs; and

9 (2) order appropriate injunctive relief.

10 **SEC. 7. REPORTS.**

11 Not later than 180 days after the date of the enact-
12 ment of this Act, and annually thereafter, the Secretary
13 of Commerce shall submit to the appropriate congressional
14 committees a report listing—

15 (1) each person that sponsored a commercial
16 boycott against a friendly country to the United
17 States in the prior calendar year; and

18 (2) each institution of higher education that has
19 formally or officially participated in a boycott
20 against an academic institution or scholar from a
21 friendly country to the United States in the prior
22 calendar year.

23 **SEC. 8. DEFINITIONS.**

24 In this Act:

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

4 (A) the Committee on Foreign Affairs and
5 the Committee on Appropriations of the House
6 of Representatives; and

7 (B) the Committee on Banking, Housing,
8 and Urban Affairs and the Committee on Ap-
9 propriations of the Senate.

10 (2) BOYCOTTED COUNTRY.—The term “boy-
11 cotted country” shall be construed to include all ter-
12 ritories controlled by such country.

13 (3) BOYCOTTING ENTITY.—The term “boy-
14 coting entity” means any country or person calling
15 for a commercial boycott of a boycotted country.

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

18 (A) a United States citizen or an alien law-
19 fully admitted for permanent residence to the
20 United States; or

21 (B) an entity organized under the laws of
22 the United States or of any jurisdiction within
23 the United States, including a foreign branch of
24 such an entity.

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