Calendar No. 238

116TH CONGRESS
1ST SESSION
S. 1838

To amend the Hong Kong Policy Act of 1992, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 13, 2019

Mr. Rubio (for himself, Mr. Cardin, Mr. Risch, Mr. Menendez, Mr. Hawley, Mr. King, Mr. Markey, Mr. Cotton, Mr. Cramer, Mr. Toomey, Mr. Durbin, Mrs. Gillibrand, Ms. Collins, Mr. Coons, Mr. Whitehouse, Mr. Cornyn, Mr. Wicker, Mr. Warner, Mr. Merkley, Mr. Young, Mr. Wyden, Mrs. Sasseen, and Mr. Romney) introduced the following bill; which was read twice and referred to the Committee on Foreign Relations

SEPTEMBER 26, 2019
Reported by Mr. Risch, with an amendment
[Strike out all after the enacting clause and insert the part printed in italic]

A BILL

To amend the Hong Kong Policy Act of 1992, 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,
SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the “Hong Kong Human Rights and Democracy Act of 2019.”

(b) Table of Contents.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Definitions.
Sec. 3. Statement of policy.
Sec. 5. Annual report on enforcement of United States export control and sanctions laws by Hong Kong.
Sec. 6. Protecting United States citizens and others from rendition to mainland China.
Sec. 7. Identification of persons responsible for abductions and for other actions to suppress basic freedoms in Hong Kong.
Sec. 8. Inadmissibility of certain aliens and family members.
Sec. 9. Financial measures.
Sec. 10. Reports to Congress.

SEC. 2. DEFINITIONS.

In this Act:

(1) ADMITTED ALIEN.—The terms “admitted” and “alien” have the meanings given those terms in section 101 of the Immigration and Nationality Act (8 U.S.C. 1101):

(2) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term “appropriate congressional committees” means—

(A) the Committee on Armed Services of the Senate;

(B) the Committee on Banking, Housing, and Urban Affairs of the Senate;
(C) the Committee on Foreign Relations of the Senate;

(D) the Committee on Homeland Security and Governmental Affairs of the Senate;

(E) the Committee on the Judiciary of the Senate;

(F) the Committee on Armed Services of the House of Representatives;

(G) the Committee on Financial Services of the House of Representatives;

(H) the Committee on Foreign Affairs of the House of Representatives;

(I) the Committee on Homeland Security of the House of Representatives; and

(J) the Committee on the Judiciary of the House of Representatives.

(3) CHINA.—The term "China" means the People’s Republic of China.

(4) FINANCIAL INSTITUTION.—The term “financial institution” has the meaning given that term in section 5312 of title 31, United States Code.

(5) SOCIAL CREDIT SYSTEM.—The term “social credit system” means a system proposed by the Government of China, scheduled to be implemented by 2020, that would aggregate data on every Chinese
citizen and business from existing financial credit systems, mass surveillance, public records, online activity, and artificial intelligence to expand the notion of a financial credit score, potentially rewarding or punishing certain financial, social, religious, or political behaviors.

(6) UNITED STATES PERSON.—The term "United States person" means—

(A) a United States citizen or an alien lawfully admitted for permanent residence to the United States; or

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

SEC. 3. STATEMENT OF POLICY.

It is the policy of the United States—

(1) to reaffirm the principles and objectives set forth in the United States-Hong Kong Policy Act of 1992 (Public Law 102–383), namely that—

(A) the United States has "a strong interest in the continued vitality, prosperity, and stability of Hong Kong".
(B) “[s]upport for democratization is a fundamental principle of United States foreign policy”;

(C) “the human rights of the people of Hong Kong are of great importance to the United States and are directly relevant to United States interests in Hong Kong [and] serve as a basis for Hong Kong’s continued economic prosperity”;

(D) Hong Kong must remain sufficiently autonomous from the People’s Republic of China to justify a different treatment under a particular law of the United States, or any provision thereof, from that accorded the People’s Republic of China;

(2) to support the democratic aspirations of the people of Hong Kong, as guaranteed to them by the Joint Declaration of the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the People’s Republic of China on the Question of Hong Kong, done at Beijing December 19, 1984 (referred to in this Act as the “Joint Declaration”), the International Covenant on Civil and Political Rights, done at New York December 19, 1966, the Universal Declaration of Human
Rights, done at Paris December 10, 1948, and the
Basic Law of the Hong Kong Special Administrative
Region of the People's Republic of China (referred
to in this Act as the "Basic Law");

(3) to urge the Government of the People's Re-
public of China to uphold its commitments to Hong
Kong, including allowing the people of Hong Kong
to rule Hong Kong with a high degree of autonomy
and without undue interference, and ensuring that
Hong Kong voters freely enjoy the right to elect the
Chief Executive and all members of the Hong Kong
Legislative Council by universal suffrage;

(4) to support the establishment of a genuine
democratic option to freely and fairly nominate and
elect the Chief Executive of Hong Kong, and the es-
establishment by 2020 of open and direct democratic
elections for all members of the Hong Kong Legisla-
tive Council;

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

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

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

(8) to protect United States citizens and long-
term permanent residents living in Hong Kong and
those visiting and transiting through Hong Kong;

and

(9) to maintain the economic and cultural ties
that provide significant benefits to the United States
and Hong Kong.

SEC. 4. AMENDMENTS TO THE UNITED STATES-HONG KONG

(a) REPORT.—Title II of the United States-Hong
Kong Policy Act of 1992 (22 U.S.C. 5721 et seq.) is
amended—

(1) in section 201(b), by inserting “or after”
after “entered into before”; and

(2) adding at the end the following:
SEC. 205. SECRETARY OF STATE REPORT REGARDING THE
AUTONOMY OF HONG KONG.

(a) Report.—

(1) In general.—The Secretary of State shall annually certify to Congress, in conjunction with the report required under section 301, whether Hong Kong is sufficiently autonomous to justify special treatment by the United States for bilateral agreements and programs, in accordance with this Act, including the degree to which Hong Kong's autonomy has been eroded due to actions taken by the Government of China that are inconsistent with its commitments in the Basic Law and the Joint Declaration and the impact of such erosion on specific areas of cooperation with the United States, including on political rights, civil liberties, rule of law, freedom of information, religious freedom, and democratic governance in Hong Kong.

(2) Factor for consideration.—In making a certification under paragraph (1), the Secretary of State should consider the terms, obligations, and expectations expressed in the Joint Declaration with respect to Hong Kong.

(b) Waiver authority.—The Secretary of State may waive the application of subsection (a) if the Secretary—
“(1) determines that such a waiver is in the national security interests of the United States; and

“(2) on or before the date on which the waiver takes effect, notifies the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives of the intent to waive such subsection.”.

(b) Visa Applicants.—Title II of the United States-Hong Kong Policy Act of 1992 (22 U.S.C. 5721 et seq.), as amended by subsection (a), is further amended by adding at the end the following:

“SEC. 206. TREATMENT OF HONG KONG APPLICANTS FOR VISAS TO STUDY OR WORK IN THE UNITED STATES.

“(a) Statement of Policy.—Notwithstanding any other provision of law, applications for visas to enter, study, or work in the United States, which are submitted by otherwise qualified applicants who resided in Hong Kong in 2014, shall not be denied on the basis of the applicant’s arrest, detention, or other adverse government action taken as a result of the applicant’s participation in nonviolent protest activities related to the electoral process, internationally recognized human rights, protecting an independent judiciary, or the rule of law.”
(b) IMPLEMENTATION.—The Secretary of State shall take such steps as may be necessary to ensure that consular officers are aware of the policy described in subsection (a) and receive appropriate training and support to ensure that the policy is carried out so that affected individuals do not face discrimination or unnecessary delay in the processing of their visa applications, including—

(1) providing specialized training for consular officers posted to Hong Kong, Beijing, Guangzhou, or Macau;

(2) instructing the United States Consulate in Hong Kong to maintain an active list of individuals whom are known to have been detained, arrested, or otherwise targeted by the Government of Hong Kong or of China, or intermediaries of such governments, as a result of their participation in the 2014 protests; to facilitate the cross-checking of visa applications for Hong Kong residents;

(3) amending the physical and online versions of the visa application, as necessary, to notify relevant applicants of such policy; and

(4) instructing personnel at the United States Consulate in Hong Kong to engage with relevant individuals in the Hong Kong community to
proactively inform them that they will not face dis-

 crimination when applying for a visa to the United

 States due to any adverse action taken against them

 by the authorities as a result of their participation

 in the 2014 protests or other peaceful pro-democracy

 or human rights demonstrations.

 ``(e) Cooperation With Like-Minded Coun-

 tries.—The Secretary of State, or his or her designee,

 shall contact appropriate representatives of other demo-

 cratic countries, particularly those who receive a large

 number of applicants for student and employment visas

 from Hong Kong—

 ``(1) to inform them of the United States policy

 regarding arrests for participation in nonviolent pro-

 tests in Hong Kong;

 ``(2) to encourage them to take similar steps to

 ensure the rights of nonviolent protesters are pro-

 tected from discrimination due to the actions of the

 Government of Hong Kong and of China; and

 ``(3) to offer to share information, as appro-

 priate, regarding the execution of such policy, in-

 cluding information regarding persons eligible for re-

 lief under such policy.’’
SEC. 5. ANNUAL REPORT ON ENFORCEMENT OF UNITED STATES EXPORT CONTROL AND SANCTIONS LAWS BY HONG KONG.

(a) In General.—Not later than 180 days after the date of the enactment of this Act, and annually thereafter, the Secretary of Commerce, in consultation with the Secretary of the Treasury and the Secretary of State, shall submit a report to the committees specified in subsection (b) that includes—

(1) an assessment of whether the Government of Hong Kong has adequately enforced the export control laws of the United States with respect to sensitive dual-use items;

(2) to the extent possible, an identification of—

(A) any items that were reexported from Hong Kong in violation of such laws;

(B) the countries and persons to which such items were reexported; and

(C) how such items were used;

(3) an assessment of whether sensitive dual-use items subject to the export control laws of the United States are being—

(A) transshipped through Hong Kong, and

(B) used to develop—

(i) the Sharp Eyes, Skynet, Integrated Joint Operations Platform, or other
systems of mass surveillance and predictive policing; or

(ii) the "social credit" system of China;

(4) an assessment of the efforts by the Government of China to use the status of Hong Kong as a separate customs territory to import items into China in violation of the export control laws of the United States, whether as part of the Greater Bay Area plan, the assignment of Hong Kong by Beijing as a national technology and innovation center, or through other programs that may exploit Hong Kong as a conduit for controlled sensitive technology;

(5) an assessment of whether the Government of Hong Kong has adequately enforced sanctions imposed by the United States and the United Nations; and

(6) a description of the types of goods and services transshipped or reexported through Hong Kong in violation of such sanctions to—

(A) North Korea or Iran; or

(B) other countries, regimes, or persons subject to such sanctions for engaging in activities—
(i) relating to international terrorism, international narcotics trafficking, or the proliferation of weapons of mass destruction; or

(ii) that otherwise present a threat to the national security, foreign policy, or economy of the United States.

(b) COMMITTEES SPECIFIED.—The committees specified in this subsection are—

   (1) the Committee on Foreign Relations of the Senate;

   (2) the Committee on Banking, Housing, and Urban Affairs of the Senate;

   (3) the Committee on Commerce, Science, and Transportation of the Senate;

   (4) the Committee on Foreign Affairs of the House of Representatives; and

   (5) the Committee on Energy and Commerce of the House of Representatives.

(c) FORM OF REPORT.—The report required under subsection (a) shall be submitted in unclassified form, but may include a classified annex.
SEC. 6. PROTECTING UNITED STATES CITIZENS AND OTHERS FROM RENDITION TO MAINLAND CHINA.

(a) FINDINGS.—Congress makes the following findings:

(1) The proposed amendments to Hong Kong’s Fugitive Ordinance, if enacted—

(A) would allow rendition from Hong Kong of residents or foreign nationals to countries—

(i) with criminal procedure systems that lack strong protections for the rights of defendants; or

(ii) in which the law is used as to repress internationally recognized human rights, including to mainland China;

(B) would remove independent legislative oversight and appropriate judicial review of extradition requests;

(C) may increase the influence of the Government of China in Hong Kong and further erode the autonomy guaranteed Hong Kong by the Joint Declaration; and

(D) would erode Hong Kong’s reputation as a center of commerce and freedom governed by the rule of law.

(2) The Government of China has subjected Chinese and foreign nationals, including citizens of
the United States, Canada, Australia, Sweden, and Taiwan, to arbitrary detention, televised confessions, denial of legal representation and medical treatment, and other type of mistreatment.

(b) POLICY STATEMENTS.—It is the policy of the United States—

(1) to ensure that United States citizens are protected from rendition to mainland China;

(2) pursuant to section 103(7) of the United States-Hong Kong Policy Act of 1992 (22 U.S.C. 5713(7)), to encourage United States businesses “to continue to operate in Hong Kong in accordance with applicable United States and Hong Kong law”;

and

(3) pursuant to section 201(b) of such Act (22 U.S.C. 5721(b)), to decide whether the Government of Hong Kong is “legally competent to carry out its obligations” under treaties and international agreements established between the United States and Hong Kong.

(c) RESPONSE TO THREAT OF RENDITION.—If the proposed amendments to Hong Kong’s Fugitive Offenders Ordinance are enacted, and the amended law allows renditions to countries that lack protection for the rights of defendants—
(1) not later than 30 days after the date of the enactment of such amendments, the President shall submit a report to the appropriate congressional committees that—

(A) assesses whether the Government of Hong Kong is “legally competent” to administer the United States-Hong Kong Agreement for the Surrender of Fugitive Offenders;

(B) determines whether any additional authorities are needed to revise or withdraw from that treaty to protect United States citizens and national security and to support the guaranteed protections of the Joint Declaration; and

(C) includes a strategy for protecting United States citizens from rendition to mainland China from Hong Kong, including an assessment of—

(i) whether additional resources are needed for American Citizen Services at the United States Consulate in Hong Kong; and

(ii) whether the Department of State will revise the travel advisory for Hong Kong to reflect the potential impact of the revised Fugitive Offenders Ordinance on
United States residents and individuals traveling to, or transiting through, Hong Kong; and

(2) if the Government of Hong Kong enacts a new law regarding national security, pursuant to Article 23 of the Basic Law, the President and the Secretary of State shall take the actions required under paragraph (1) and any additional actions required under section 202 of the United States-Hong Kong Policy Act of 1992 (U.S.C. 5722) unless Secretary of State certifies that—

(A) the new law does not violate the guarantees of the Joint Declaration; and

(B) the internationally recognized human rights of Hong Kong citizens and foreign residents will not be restricted as a result of the new law's implementation.

SEC. 7. IDENTIFICATION OF PERSONS RESPONSIBLE FOR ABDUCTIONS AND FOR OTHER ACTIONS TO SUPPRESS BASIC FREEDOMS IN HONG KONG.

(a) In General.—Not later than 180 days after the date of the enactment of this Act, and annually thereafter in conjunction with the publication of the report required under section 301 of the Hong Kong Policy Act of 1992 (22 U.S.C. 5731) the President shall submit, to the appro-
priate congressional committees, a list containing the
name of each person who the President determines, based
on credible information, is responsible for—
(1) the surveillance, abduction, detention,
abuse, or forced confession of Gui Minhai, Lee Bo,
Lam Wing-kee, Lui Bo, or Cheung Chi-ping, all of
whom are involved in the operation of the Mighty
Current Publishing House based in Hong Kong;
(2) the surveillance, abduction, detention,
abuse, or forced confession of Guo Zhongxiao or
Wang Jianmin, both of whom are involved in the op-
eration of magazine publications based in Hong
Kong; or
(3) the rendition to the mainland of the Peo-
ple’s Republic of China of any individual, or the ar-
bitrary detention, torture, or forced confession of
any individual after rendition, in connection with the
exercise by that individual of internationally recog-
nized human rights in Hong Kong, including such
individuals extradited to the mainland of the Peo-
ple’s Republic of China under any amended fugitive
offenders ordinance in Hong Kong.
(b) Consideration of certain information.—In
preparing the list required under subsection (a), the Presi-
dent shall consider—
(1) information provided by the chairperson and
ranking member of each of the appropriate congressional committees; and

(2) credible information obtained by other countries or nongovernmental organizations, including organizations inside China or Hong Kong, that monitor the human rights abuses of the Government of the China or its agents.

(d) Requests by Chairperson and Ranking Member of Appropriate Congressional Committees.—

(1) In general.—Not later than 120 days after receiving a written request from the chairperson and ranking member of 1 of the appropriate congressional committees with respect to whether a person meets the criteria for being added to the list required under subsection (a), the President shall submit a response to the chairperson and ranking member of the committee that made the request with respect to the status of the person.

(2) Information about removal decisions.—If the President removes from the list required under subsection (a) a person that was placed on the list at the request of the chairperson and ranking member of 1 of the appropriate congres-
sional committees, the President shall provide the
chairperson and ranking member with any informa-
tion that contributed to the decision to remove the
person.

(3) Form.—The President may submit a re-
response required under paragraph (1) in classified
form if the President determines that such classi-
ification is vital to the national security interests of
the United States.

SEC. 8. INADMISSIBILITY OF CERTAIN ALIENS AND FAMILY
MEMBERS.

(a) In General.—Section 212(a)(2) of the Immi-
gration and Nationality Act (8 U.S.C. 1182(a)(2)) is
amended by adding at the end the following:

"(J) Certain aliens responsible for
abductions or extraditions from Hong
Kong.—Any alien included in the list submitted
by the President under section 7(a) of the
Hong Kong Human Rights and Democracy Act
of 2019 is inadmissible."

(b) Current Visas Revoked.—

(1) In General.—The issuing consular officer,
the Secretary of State, or the Secretary of Home-
land Security (or a designee of either Secretary)
shall revoke any visa or other entry documentation
issued to any alien who is included on the list required under section 7(a), regardless of when such visa or entry documentation was issued.

(2) Effective date.—Revocations under paragraph (1) shall take effect on the date such action is taken and shall automatically cancel any other valid visa or entry documentation that is in the alien’s possession.

(c) Waiver for National Security Interests.—

(1) In general.—The Secretary of State may waive, with respect to an alien, the application of section 212(a)(2) of the Immigration and Nationality Act, as amended by subsection (a), or the application of subsection (b) if the Secretary—

(A) determines that such waiver—

(i) is necessary to permit the United States to comply with the Agreement between the United Nations and the United States of America regarding the Headquarters of the United Nations, signed June 26, 1947, and entered into force November 21, 1947, or other applicable international obligations of the United States; or
(ii) is vital to the national security interests of the United States; and

(B) before granting such waiver, provides to the appropriate congressional committees notice of, and a justification for, the waiver.

(2) Timing for certain waivers.—Notification under subparagraph (B) of paragraph (1) shall be made not later than 15 days before granting a waiver under such paragraph if the Secretary grants such waiver under subparagraph (A)(ii) of such paragraph.

(d) Regulatory Authority.—The Secretary of State shall prescribe such regulations as may be necessary to carry out this section.

SEC. 9. FINANCIAL MEASURES.

(a) Blocking of Property.—The President shall exercise all powers granted by the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) (except that the requirements of section 202 of such Act (50 U.S.C. 1701) shall not apply) to the extent necessary to block and prohibit all transactions in all property and interests in property of a person on the list required under section 7(a) if such property and interests in property—

(1) are in the United States;

(2) come within the United States; or
(3) are or come within the possession or control of a United States person.

(b) Exception for Importation of Goods.—

(1) In general.—The requirement to impose sanctions under subsection (a) shall not include the authority to impose sanctions with respect to the importation of goods.

(2) Good Defined.—In this subsection, the term "good" means any article, natural or manmade substance, material, supply or manufactured product, including inspection and test equipment, and excluding technical data.

(c) Waiver for National Security Interests.—The President may waive the application of subsection (a) if the President—

(1) determines that such waiver is vital for the national security interests of the United States; and

(2) not later than 15 days before granting the waiver, submits to the appropriate congressional committees notice of, and a justification for, the waiver.

(d) Enforcement.—

(1) Penalties.—Any person that violates, attempts to violate, conspires to violate, or causes a violation of subsection (a) or any regulation, license,
or order issued to carry out that subsection shall be
subject to the penalties set forth in subsections (b) and (c) of section 206 of the International Emer-
gency Economic Powers Act (50 U.S.C. 1705) to the
same extent as a person that commits an unlawful
act described in subsection (a) of such section.

(2) Requirements for financial institutions.—Not later than 120 days after the date of
the enactment of this Act, the Secretary of the
Treasury shall prescribe or amend regulations to the
extent necessary to require each financial institution
that is a United States person and has within its
possession or control assets that are property or in-
terests in property of a person on the list required
under section 7(a) to certify to the Secretary that,
to the best of the knowledge of the financial institu-
tion, the financial institution has blocked all assets
within the possession or control of the financial in-
stitution in accordance with subsection (a).

(3) Notification to Congress.—Not later
than 10 days before prescribing or revising regula-
tions under paragraph (2), the President shall notify
the appropriate congressional committees of the pro-
posed regulations and the provisions of this Act or
amendments made by this Act that the regulations
are implementing.

(c) RULEMAKING.—The Secretary of the Treasury
shall issue such regulations, licenses, and orders as may
be necessary to carry out this section.

SEC. 10. REPORTS TO CONGRESS.

(a) In General.—The President shall submit a re-
port to the appropriate congressional committees that in-
cludes—

(1) a list of each foreign person with respect to
which the President imposed sanctions pursuant to
section 8 or 9 during the 1-year period preceding the
submission of the report;

(2) a description of the type of sanctions im-
posed with respect to each such person;

(3) the number of foreign persons with respect
to which the President—

(A) imposed sanctions under section 8 or
9 during that year; and

(B) terminated sanctions under section 8
or 9 during that year;

(4) the dates on which such sanctions were im-
posed or terminated; and

(5) the reasons for imposing or terminating
such sanctions.
(b) Dates for Submission.—

(1) Initial report.—The President shall submit the initial report under subsection (a) not later than 1 year after the date of the enactment of this Act.

(2) Subsequent reports.—

(A) In general.—The President shall submit a report under subsection (a) on December 10, or the first day thereafter on which both Houses of Congress are in session, of—

(i) the calendar year in which the initial report is submitted if the initial report is submitted before December 10 of that calendar year; and

(ii) each calendar year thereafter.

(c) Form of Report.—

(1) In general.—Each report required under subsection (a) shall be submitted in unclassified form, but may include a classified annex.

(2) Exception.—The name of a foreign person to be included in the list required under subsection (a)(1) may not be included in the classified annex authorized under paragraph (1) unless the President—
(A) determines that such inclusion is vital to the national security interests of the United States;

(B) uses the annex in a manner consistent with congressional intent and the purposes of this Act; and

(C) not later than 15 days before including such name in the classified annex, provides to the appropriate congressional committees notice of; and a justification for; including the name in the classified annex despite any publicly available credible information indicating that the person engaged in an activity described in section 8 or 9.

(d) Public Availability.—

(1) In general.—The unclassified portion of the report required under subsection (a) shall be made available to the public, including through publication in the Federal Register.

(2) Nonapplicability of Confidentiality Requirement with Respect to Visa Records.—The President shall publish the list required under subsection (a)(1) without regard to the requirements under section 222(f) of the Immigration and Nationality Act (8 U.S.C. 1222(f)) with respect to con-
SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Hong Kong Human Rights and Democracy Act of 2019”.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Definitions.
Sec. 3. Statement of policy.
Sec. 5. Annual report on violations of United States export control laws and United Nations sanctions occurring in Hong Kong.
Sec. 6. Protecting United States citizens and others from rendition to the People’s Republic of China.
Sec. 7. Sanctions relating to undermining fundamental freedoms and autonomy in Hong Kong.
Sec. 8. Sanctions reports.
Sec. 9. Sense of Congress on People’s Republic of China state-controlled media.
Sec. 10. Sense of Congress on commercial exports of crowd control equipment to Hong Kong.

SEC. 2. DEFINITIONS.

In this Act:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term “appropriate congressional committees” means—

(A) the Committee on Foreign Relations of the Senate;

(B) the Committee on Armed Services of the Senate;

(C) the Committee on Banking, Housing, and Urban Affairs of the Senate;
(D) the Committee on Homeland Security and Governmental Affairs of the Senate;

(E) the Committee on the Judiciary of the Senate;

(F) the Committee on Foreign Affairs of the House of Representatives;

(G) the Committee on Armed Services of the House of Representatives;

(H) the Committee on Financial Services of the House of Representatives;

(I) the Committee on Homeland Security of the House of Representatives; and

(J) the Committee on the Judiciary of the House of Representatives.

(2) SOCIAL CREDIT SYSTEM.—The term “social credit system” means a system proposed by the Government of the People’s Republic of China and scheduled for implementation by 2020, which would—

(A) use existing financial credit systems, public records, online activity, and other tools of surveillance to aggregate data on every Chinese citizen and business; and

(B) use such data to monitor, shape, and rate certain financial, social, religious, or political behaviors.
(3) UNITED STATES PERSON.—The term “United States person” means—

(A) a United States citizen;

(B) a lawfully admitted permanent resident of the United States; or

(C) an entity organized under the laws of—

(i) the United States; or

(ii) any jurisdiction within the United States, including a foreign branch of such an entity.

SEC. 3. STATEMENT OF POLICY.

It is the policy of the United States—

(1) to reaffirm the principles and objectives set forth in the United States-Hong Kong Policy Act of 1992 (Public Law 102–383), namely that—

(A) the United States has “a strong interest in the continued vitality, prosperity, and stability of Hong Kong”;

(B) “[s]upport for democratization is a fundamental principle of United States foreign policy” and therefore “naturally applies to United States policy toward Hong Kong”;

(C) “the human rights of the people of Hong Kong are of great importance to the United States and are directly relevant to United States
interests in Hong Kong [and] serve as a basis for
Hong Kong’s continued economic prosperity’’;
and

(D) Hong Kong must remain sufficiently
autonomous from the People’s Republic of China
to “justify treatment under a particular law of
the United States, or any provision thereof, dif-
f erent from that accorded the People’s Republic
of China’’;

(2) to support the high degree of autonomy and
fundamental rights and freedoms of the people of
Hong Kong, as enumerated by—

(A) the Joint Declaration of the Govern-
ment of the United Kingdom of Great Britain
and Northern Ireland and the Government of the
People’s Republic of China on the Question of
Hong Kong, done at Beijing December 19, 1984
(referred to in this Act as the “Joint Declara-
tion’’);

(B) the International Covenant on Civil
and Political Rights, done at New York Decem-
ber 19, 1966; and

(C) the Universal Declaration of Human
Rights, done at Paris December 10, 1948;
(3) to support the democratic aspirations of the people of Hong Kong, including the “ultimate aim” of the selection of the Chief Executive and all members of the Legislative Council by universal suffrage, as articulated in the Basic Law of the Hong Kong Special Administrative Region of the People’s Republic of China (referred to in this Act as the “Basic Law”);

(4) to urge the Government of the People’s Republic of China to uphold its commitments to Hong Kong, including allowing the people of Hong Kong to govern Hong Kong with a high degree of autonomy and without undue interference, and ensuring that Hong Kong voters freely enjoy the right to elect the Chief Executive and all members of the Hong Kong Legislative Council by universal suffrage;

(5) to support the establishment of a genuine democratic option to freely and fairly nominate and elect the Chief Executive of Hong Kong, and the establishment by 2020 of open and direct democratic elections for all members of the Hong Kong Legislative Council;

(6) to support the robust exercise by residents of Hong Kong of the rights to free speech, the press, and other fundamental freedoms, as provided by the Basic
Law, the Joint Declaration, and the International
Covenant on Civil and Political Rights;

(7) to support freedom from arbitrary or unlawful arrest, detention, or imprisonment for all Hong Kong residents, as provided by the Basic Law, the Joint Declaration, and the International Covenant on Civil and Political Rights;

(8) to draw international attention to any violations by the Government of the People’s Republic of China of the fundamental rights of the people of Hong Kong, as provided by the International Covenant on Civil and Political Rights, and any encroachment upon the autonomy guaranteed to Hong Kong by the Basic Law and the Joint Declaration;

(9) to protect United States citizens and long-term permanent residents living in Hong Kong, as well as people visiting and transiting through Hong Kong;

(10) to maintain the economic and cultural ties that provide significant benefits to both the United States and Hong Kong; and

(11) to coordinate with allies, including the United Kingdom, Australia, Canada, Japan, and the Republic of Korea, to promote democracy and human rights in Hong Kong.

(a) REPORT.—Title II of the United States-Hong Kong Policy Act of 1992 (22 U.S.C. 5721 et seq.) is amended—

(1) in section 201(b), by striking “such date” each place such term appears and inserting “the date of the enactment of the Hong Kong Human Rights and Democracy Act of 2019”; and

(2) adding at the end the following:

“SEC. 205. SECRETARY OF STATE REPORT REGARDING THE AUTONOMY OF HONG KONG.

“(a) CERTIFICATION.—

“(1) IN GENERAL.—Except as provided in subsection (b), the Secretary of State, on at least an annual basis, and in conjunction with the report required under section 301, shall issue a certification to Congress that—

“(A) indicates whether Hong Kong continues to warrant treatment under United States law in the same manner as United States laws were applied to Hong Kong before July 1, 1997;

“(B) addresses—

“(i) commercial agreements;

“(ii) law enforcement cooperation, including extradition requests;
“(iii) sanctions enforcement;
“(iv) export controls, and any other agreements and forms of exchange involving dual use, critical, or other sensitive technologies;
“(v) any formal treaties or agreements between the United States and Hong Kong;
“(vi) other areas of bilateral cooperation that the Secretary determines to be relevant; and
“(vii) decision-making within the Government of Hong Kong, including executive, legislative, and judicial structures, including—
“(I) freedom of assembly;
“(II) freedom of speech;
“(III) freedom of expression; and
“(IV) freedom of the press, including the Internet and social media;
“(viii) universal suffrage, including the ultimate aim of the selection of the Chief Executive and all members of the Legislative Council by universal suffrage;
“(ix) judicial independence;
“(x) police and security functions;
“(xi) education;
“(xii) laws or regulations regarding treason, secession, sedition, subversion against the Central People’s Government of the People’s Republic of China, or theft of state secrets;
“(xiii) laws or regulations regarding foreign political organizations or bodies;
“(xiv) laws or regulations regarding political organizations; and
“(xv) other rights enumerated in the Universal Declaration of Human Rights, done at Paris December 10, 1948, and the International Covenant on Civil and Political Rights, done at New York December 19, 1966; and
“(C) includes—
“(i) an assessment of the degree of any erosions to Hong Kong’s autonomy in each category listed in subparagraph (B) resulting from actions by the Government of the People’s Republic of China that are inconsistent with its commitments under the Basic Law or the Joint Declaration;
“(ii) an evaluation of the specific impacts to any areas of cooperation between the United States and Hong Kong resulting from erosions of autonomy in Hong Kong or failures of the Government of Hong Kong to fulfill obligations to the United States under international agreements within the categories listed in subparagraph (B); and

“(iii) a list of any specific actions taken by the United States Government in response to any erosion of autonomy or failures to fulfill obligations to the United States under international agreements identified in this certification and the report required under section 301.

“(2) FACTOR FOR CONSIDERATION.—In making each certification under paragraph (1), the Secretary of State should consider the terms, obligations, and expectations expressed in the Joint Declaration with respect to Hong Kong.

“(3) ADDITIONAL CERTIFICATIONS.—The certification under section (1) shall be issued annually, but the Secretary may issue additional certifications at any time if the Secretary determines it is warranted by circumstances in Hong Kong.
“(b) WAIVER AUTHORITY.—

“(1) IN GENERAL.—The Secretary of State may waive the application of subsection (a) if—

“(A) the Secretary determines that such a waiver is in the national security interests of the United States; and

“(B) on or before the date on which the waiver takes effect, the Secretary notifies the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives of the intent to waive such subsection;

“(2) PARTIAL WAIVER.—Except for the list of actions described in subsection (a)(1)(C)(iii), the Secretary of State may waive relevant parts of the application of subsection (a) if the President issues an Executive order under section 202 that suspends the application of any particular United States law to Hong Kong.”.

(b) VISA APPLICANTS.—Title II of the United States-Hong Kong Policy Act of 1992 (22 U.S.C. 5721 et seq.), as amended by subsection (a), is further amended by adding at the end the following:
“SEC. 206. TREATMENT OF HONG KONG APPLICANTS FOR VISAS TO STUDY OR WORK IN THE UNITED STATES.

“(a) Visa Eligibility for Certain Hong Kong Students.—Notwithstanding any other provision of law, applications for visas to enter, study, or work in the United States, which are submitted by otherwise qualified applicants who resided in Hong Kong in 2014 and later, may not be denied primarily on the basis of the applicant’s subject to politically-motivated arrest, detention, or other adverse government action.

“(b) Implementation.—The Secretary of State shall take such steps as may be necessary to ensure that consular officers are aware of the policy described in subsection (a) and receive appropriate training and support to ensure that the policy is carried out so that affected individuals do not face discrimination or unnecessary delay in the processing of their visa applications, including—

“(1) providing specialized training for all consular officers posted to the United States Embassy in Beijing or to any United States consulate in the People’s Republic of China, the Hong Kong Special Administrative Region, or the Macau Special Administrative Region;

“(2) instructing the United States Consulate in Hong Kong to maintain an active list of individuals...
who are known to have been formally charged, de-
tained, or convicted by the Government of Hong Kong
Special Administrative Region or by the Government
of the People’s Republic of China, or intermediaries
of such governments, based on politically-motivated
considerations related to their exercise of rights enu-
merated in the Universal Declaration of Human
Rights, done at Paris December 10, 1948, or the
International Covenant on Civil and Political Rights,
done at New York December 19, 1966, to facilitate the
cross-checking of visa applications for Hong Kong
residents; and

“(3) updating any relevant United States Gov-
ernment websites with information on the policy de-
scribed in subsection (a).

“(c) COOPERATION WITH LIKE-MINDED COUNTRIES.—
The Secretary of State shall contact appropriate representa-
tives of other democratic countries, particularly those who
receive a large number of applicants for student and em-
ployment visas from Hong Kong—

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

“(2) to encourage them to take similar steps to
ensure the rights of nonviolent protesters are protected
from discrimination due to the actions of the Government of Hong Kong and of the Government of the People’s Republic of China.”.

SEC. 5. ANNUAL REPORT ON VIOLATIONS OF UNITED STATES EXPORT CONTROL LAWS AND UNITED NATIONS SANCTIONS OCCURRING IN HONG KONG.

(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, and annually thereafter until the date that is 7 years after the date of the enactment of this Act, the Secretary of Commerce, in consultation with the Secretary of the Treasury and the Secretary of State, shall submit a report to the committees specified in subsection (b) that includes—

(1) an assessment of the nature and extent of violations of United States export control and sanctions laws occurring in Hong Kong;

(2) to the extent possible, the identification of—

(A) any items that were reexported from Hong Kong in violation of the laws referred to in paragraph (1);

(B) the countries and persons to which the items referred to in subparagraph (A) were reexported; and

(C) how such items were used;
(3) an assessment of whether sensitive dual-use items subject to the export control laws of the United States are being—

(A) transshipped through Hong Kong; and

(B) used to develop—

(i) the Sharp Eyes, Skynet, Integrated Joint Operations Platform, or other systems of mass surveillance and predictive policing; or

(ii) the “social credit system” of the People’s Republic of China;

(4) an assessment of the efforts by the Government of the People’s Republic of China to use the status of Hong Kong as a separate customs territory to import items into the People’s Republic of China from Hong Kong in violation of the export control laws of the United States, whether as part of the Greater Bay Area plan, through the assignment by Beijing of Hong Kong as a national technology and innovation center, or through other programs that may exploit Hong Kong as a conduit for controlled sensitive technology;

(5) an assessment of whether the Government of Hong Kong has adequately enforced sanctions imposed by the United Nations;
(6) a description of the types of goods and services transshipped or reexported through Hong Kong in violation of such sanctions to—

(A) North Korea or Iran; or

(B) other countries, regimes, or persons subject to such sanctions for engaging in activities—

(i) relating to international terrorism, international narcotics trafficking, or the proliferation of weapons of mass destruction; or

(ii) that otherwise present a threat to the national security, foreign policy, or economy of the United States; and

(7) an assessment of whether shortcomings in the enforcement of export controls or sanctions by the Government of Hong Kong necessitates the assignment of additional Department of the Treasury, Department of Commerce, or Department of State personnel to the United States Consulate in Hong Kong.

(b) COMMITTEES SPECIFIED.—The committees specified in this subsection are—

(1) the Committee on Foreign Relations of the Senate;
(2) the Committee on Banking, Housing, and
Urban Affairs of the Senate;
(3) the Committee on Commerce, Science, and
Transportation of the Senate;
(4) the Committee on Foreign Affairs of the
House of Representatives; and
(5) the Committee on Energy and Commerce of
the House of Representatives

(c) FORM OF REPORT.—The report required under
subsection (a) shall be submitted in unclassified form, but
may include a classified annex.

SEC. 6. PROTECTING UNITED STATES CITIZENS AND OTH-
ERS FROM RENDITION TO THE PEOPLE’S RE-
PUBLIC OF CHINA.

(a) POLICY STATEMENTS.—It is the policy of the
United States—

(1) to safeguard United States citizens from ex-
tradition, rendition, or abduction to the People’s Re-
public of China from Hong Kong for trial, detention,
or any other purpose;

(2) to safeguard United States businesses in
Hong Kong from economic coercion and intellectual
property theft;

(3) pursuant to section 103(7) of the United
5713(7)), to encourage United States businesses “to continue to operate in Hong Kong, in accordance with applicable United States and Hong Kong law”; and

(4) pursuant to section 201(b) of such Act (22 U.S.C. 5721(b)), to evaluate, not less frequently than annually and as circumstances, dictate whether the Government of Hong Kong is “legally competent to carry out its obligations” under treaties and international agreements established between the United States and Hong Kong.

(b) RESPONSE TO THREAT OF RENDITION.—Not later than 30 days after the President determines that legislation proposed or enacted by the Government of Hong Kong would put United States citizens at risk of extradition or rendition to the People’s Republic of China or to other countries that lack protections for the rights of defendants, the President shall submit a report to the appropriate congressional committees that—

(1) contains a strategy for protecting United States citizens and businesses in Hong Kong;

(2) assesses the potential risks of the legislation to United States citizens residing in, traveling to, or transiting through Hong Kong; and

(3) determines whether—
(A) additional resources are needed for American Citizen Services at the United States Consulate in Hong Kong; and

(B) the Government of Hong Kong is "legally competent" to administer the United States-Hong Kong Agreement for the Surrender of Fugitive Offenders, done at Hong Kong December 20, 1996, or other relevant law enforcement agreements between the United States and Hong Kong.

SEC. 7. SANCTIONS RELATING TO UNDERMINING FUNDAMENTAL FREEDOMS AND AUTONOMY IN HONG KONG.

(a) IDENTIFICATION OF PERSONS RESPONSIBLE FOR UNDERMINING FUNDAMENTAL FREEDOMS AND AUTONOMY IN HONG KONG.—

(1) IN GENERAL.—The President shall submit a report to the appropriate congressional committees, in accordance with paragraph (2), that identifies each foreign person that the President determines, based on credible information, is responsible for—

(A) the extrajudicial rendition, arbitrary detention, torture, or forced confession of any person in Hong Kong; or
(B) other gross violations of internationally recognized human rights in Hong Kong.

(2) TIMING OF REPORTS.—The President shall submit to the appropriate congressional committees—

(A) the report required under paragraph (1)—

(i) not later than 180 days after the date of the enactment of this Act; and

(ii) not less frequently than annually thereafter in conjunction with the publication of the report required under section 301 of the United States-Hong Kong Policy Act of 1992 (22 U.S.C. 5731); and

(B) an update to the report not later than 15 days after any new action is taken under subsection (b) based on the discovery of new credible information described in paragraph (1).

(3) CONSIDERATION OF CERTAIN INFORMATION.—In preparing the report required under paragraph (1), the President shall consider—

(A) information provided jointly by the chairperson and ranking member of each of the appropriate congressional committees; and

(B) credible information obtained by other countries or reputable nongovernmental organi-
zations that monitor violations of human rights abuses.

(4) FORM.—The report required under paragraph (1) shall be submitted in unclassified form, but may include a classified annex.

(b) IMPOSITION OF SANCTIONS.—The President shall impose the sanctions described in subsection (c) with respect to each foreign person identified in the report required under subsection (a)(1).

(c) SANCTIONS DESCRIBED.—The sanctions described in this subsection are the following:

(1) ASSET BLOCKING.—The President shall exercise all of the powers granted to the President under the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) to the extent necessary to block and prohibit all transactions in property and interests in property of a foreign person identified in the report required under subsection (a)(1) if such property and interests in property are in the United States, come within the United States, or come within the possession or control of a United States person.

(2) INELIGIBILITY FOR VISAS, ADMISSION, OR PAROLE.—

(A) VISAS, ADMISSION, OR PAROLE.—An alien described in subsection (a)(1) is—
(i) inadmissible to the United States;

(ii) ineligible to receive a visa or other documentation to enter the United States;

and

(iii) otherwise ineligible to be admitted or paroled into the United States or to receive any other benefit under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).

(B) CURRENT VISAS REVOKED.—

(i) IN GENERAL.—An alien described in subsection (a)(1) is subject to revocation of any visa or other entry documentation regardless of when the visa or other entry documentation is or was issued.

(ii) IMMEDIATE EFFECT.—A revocation under clause (i) shall—

(I) take effect immediately; and

(II) automatically cancel any other valid visa or entry documentation that is in the alien’s possession.

(C) EXCEPTION TO COMPLY WITH INTERNATIONAL OBLIGATIONS.—Sanctions under this paragraph shall not apply with respect to an alien if admitting or paroling the alien into the
United States is necessary to permit the United States to comply with the Agreement regarding the Headquarters of the United Nations, signed at Lake Success June 26, 1947, and entered into force November 21, 1947, between the United Nations and the United States, or other applicable international obligations.

(3) PENALTIES.—The penalties provided for in subsections (b) and (c) of section 206 of the International Emergency Economic Powers Act (50 U.S.C. 1705) shall apply to a foreign person that violates, attempts to violate, conspires to violate, or causes a violation of paragraph (1) to the same extent that such penalties apply to a person that commits an unlawful act described in subsection (a) of such section 206.

(d) IMPLEMENTATION.—The President may exercise all authorities provided under sections 203 and 205 of the International Emergency Economic Powers Act (50 U.S.C. 1702 and 1704) to carry out this section.

(e) WAIVER.—The President may waive the application of sanctions under this section with respect to a person identified in the report required under subsection (a)(1) if the President determines and certifies to the appropriate congressional committees that such a waiver is in the national interest of the United States.
(f) Exception Relating to Importation of Goods.—

(1) In general.—The authorities and requirements to impose sanctions authorized under this section shall not include the authority or a requirement to impose sanctions on the importation of goods.

(2) Good defined.—In this subsection, the term “good” means any article, natural or manmade substance, material, supply, or manufactured product, including inspection and test equipment, and excluding technical data.

(g) Termination of Sanctions.—The President may terminate the application of sanctions under this section with respect to a person if the President determines and reports to the appropriate congressional committees not less than 15 days before the termination takes effect that—

(1) credible information exists that the person did not engage in the activity for which sanctions were imposed;

(2) the person has been prosecuted appropriately for the activity for which sanctions were imposed;

(3) the person has credibly demonstrated a significant change in behavior, has paid an appropriate consequence for the activity for which sanctions were imposed, and has credibly committed to not engage in
an activity described in subsection (a)(1) in the future; or

(4) the termination of the sanctions is in the national security interests of the United States.

(h) DEFINITIONS.—In this section:

(1) ADMISSION; ADMITTED; ALIEN.—The terms “admission”, “admitted”, and “alien” have the meanings given those terms in section 101 of the Immigration and Nationality Act (8 U.S.C. 1101).

(2) FOREIGN PERSON.—The term “foreign person” means a person that is not a United States person.

SEC. 8. SANCTIONS REPORTS.

(a) In General.—In accordance with section 7, the President shall submit, to the appropriate congressional committees, a report that includes—

(1) a list of each foreign person with respect to which the President imposed sanctions during the year preceding the submission of the report;

(2) a description of the type of sanctions imposed with respect to each such person;

(3) the number of foreign persons with respect to which the President terminated sanctions under section 7 during that year;
(4) the dates on which such sanctions were imposed or terminated, as applicable;

(5) the reasons for imposing or terminating such sanctions; and

(6) a description of the efforts of the President to encourage the governments of other countries to impose sanctions that are similar to the sanctions authorized under section 7.

(b) Public Availability.—The unclassified portion of the report required under subsection (a) shall be made available to the public, including through publication in the Federal Register.

(c) Nonapplicability of Confidentiality Requirement With Respect to Visa Records.—The President shall publish the report required under subsection (a) without regard to the requirements of section 222(f) of the Immigration and Nationality Act (8 U.S.C. 1202(f)) with respect to confidentiality of records pertaining to the issuance or refusal of visas or permits to enter the United States.

SEC. 9. SENSE OF CONGRESS ON PEOPLE’S REPUBLIC OF CHINA STATE-CONTROLLED MEDIA.

It is the sense of Congress that—

(1) the United States condemns the deliberate targeting and harassment of democracy activists, dip-
diplomatic personnel of the United States and other na-
tions, and their families by media organizations con-
trolled by the Government of the People’s Republic of
China, including Wen Wei Po and Ta Kung Po;

(2) the Secretary of State should clearly inform
the Government of the People’s Republic of China that
the use of media outlets to spread disinformation or
to intimidate and threaten its perceived enemies in
Hong Kong or in other countries is unacceptable; and

(3) the Secretary of State should take any activi-
ties described in paragraph (1) or (2) into consider-
ation when granting visas for travel and work in the
United States to journalists from the People’s Repub-
llic of China who are affiliated with any such media
organizations.

**SEC. 10. SENSE OF CONGRESS ON COMMERCIAL EXPORTS
OF CROWD CONTROL EQUIPMENT TO HONG
KONG.**

It is sense of Congress that the Department of Com-
erce, in conjunction with other relevant Federal depart-
ments and agencies, should consider appropriate adjust-
ments to the current United States export controls with re-
spect to Hong Kong to prevent the supply of crowd control
and surveillance equipment that could be used inappropri-
cately in Hong Kong.
A BILL

To amend the Hong Kong Policy Act of 1992, and
for other purposes.

SEPTEMBER 26, 2019

Reported with an amendment