

113TH CONGRESS
2D SESSION

H. R. 5696

To reinstate reporting requirements related to United States-Hong Kong relations.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 13, 2014

Mr. SMITH of New Jersey (for himself, Mr. LIPINSKI, Mr. WOLF, and Ms. PELOSI) introduced the following bill; which was referred to the Committee on Foreign Affairs

A BILL

To reinstate reporting requirements related to United States-Hong Kong relations.

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 “Hong Kong Human
5 Rights and Democracy Act”.

6 **SEC. 2. FINDINGS.**

7 Congress makes the following findings:

8 (1) The Joint Declaration of the Government of
9 the United Kingdom of Great Britain and Northern
10 Ireland and the Government of the People’s Repub-

1 lic of China on the Question of Hong Kong, done at
2 Beijing December 19, 1984 (in this Act referred to
3 as the “Joint Declaration”)—

4 (A) provided that the People’s Republic of
5 China resumed sovereignty over Hong Kong on
6 July 1, 1997; and

7 (B) established a “high degree of auton-
8 omy” for Hong Kong except in matters of for-
9 eign affairs and defense.

10 (2) The Basic Law of the Hong Kong Special
11 Administrative Region of the People’s Republic of
12 China (in this Act referred to as “Basic Law”)—

13 (A) guarantees Hong Kong a “high degree
14 of autonomy” and separate executive, legisla-
15 tive, and independent judicial powers;

16 (B) generally prohibits the central Govern-
17 ment of the People’s Republic of China from
18 interfering in the affairs that Hong Kong ad-
19 ministers on its own according to the Basic
20 Law;

21 (C) protects the rights to free speech,
22 press, assembly, and religion;

23 (D) provides that the socialist system and
24 policies shall not be practiced in Hong Kong
25 and that Hong Kong’s capitalist system and

1 way of life shall remain unchanged for 50 years
2 (the principle of “one country, two systems”);

3 (E) affirms the continuing applicability of
4 the International Covenant on Civil and Polit-
5 ical Rights to Hong Kong;

6 (F) provides that the head of the Hong
7 Kong Special Administrative Region shall be
8 the Chief Executive;

9 (G) provides that “the ultimate aim is the
10 selection of the Chief Executive by universal
11 suffrage upon nomination by a broadly rep-
12 resentative nominating committee in accordance
13 with democratic procedures”;

14 (H) provides that the legislature of the
15 Hong Kong Special Administrative Region shall
16 be the Legislative Council; and

17 (I) provides that “the ultimate aim is the
18 election of all the members of the Legislative
19 Council by universal suffrage”.

20 (3) The National People’s Congress Standing
21 Committee (NPCSC) determined on December 29,
22 2007, that Hong Kong could elect the Chief Execu-
23 tive by universal suffrage beginning in 2017, and
24 that Hong Kong could thereafter elect the Legisla-
25 tive Council by universal suffrage beginning in 2020.

1 (4) The Chief Executive is currently selected by
2 an Election Committee consisting of 1,200 members.
3 In order to run, candidates for Chief Executive must
4 currently receive the support of one-eighth of the
5 members of the Election Committee, the majority of
6 whom reportedly support or have ties to the Chinese
7 Communist Party.

8 (5) On August 31, 2014, the NPCSC deter-
9 mined that the 2017 election for the Chief Executive
10 could be held by universal suffrage but that Hong
11 Kong voters could only choose from two to three
12 candidates, each of whom is to be chosen by a ma-
13 jority of a nominating committee similar to the cur-
14 rent Election Committee that is heavily controlled by
15 pro-Beijing members.

16 (6) International standards for elections, in-
17 cluding Article 21 of the Universal Declaration of
18 Human Rights and Article 25 of the International
19 Covenant on Civil and Political Rights, guarantee
20 citizens the right to vote and to be elected in gen-
21 uine periodic elections by universal and equal suf-
22 frage without unreasonable restrictions.

23 (7) Hundreds of thousands of Hong Kong resi-
24 dents have consistently and peacefully expressed
25 their dissatisfaction with the electoral reform plans

1 of the Hong Kong government and the Government
2 of the People's Republic of China, including the Au-
3 gust 2014 NPCSC decision, and have called for a
4 genuine choice in elections that meet international
5 standards. Their peaceful and orderly protests have
6 set an example for other democratic movements
7 around the world, including those in mainland China
8 who continue to fight for their fundamental free-
9 doms.

10 (8) Media reports indicate that Hong Kong po-
11 lice used tear gas and pepper spray against dem-
12 onstrators on September 28, 2014, and that police
13 allegedly failed to adequately protect demonstrators
14 from mobs of counter-protestors, some of whom had
15 affiliations with gangs known as “triads”, who beat
16 students and forcibly tried to remove them from
17 their places of protest. There have also been several
18 accusations of excessive use of force by the Hong
19 Kong Police which are under investigation.

20 (9) The United States enjoys close economic,
21 social, and cultural ties with Hong Kong. According
22 to the Department of State, 60,000 United States
23 citizens live in Hong Kong, and 1,400 United States
24 businesses have offices there. According to the Office
25 of the United States Trade Representative, Hong

1 Kong is the United States 18th largest trade part-
2 ner and 9th largest goods export market.

3 (10) Hong Kong's unique status as an inter-
4 national finance center where the rule of law and the
5 rights and freedoms of its citizens are protected has
6 served as the foundation for Hong Kong's stability
7 and prosperity.

8 (11) Section 301 of the Hong Kong Policy Act
9 of 1992 (22 U.S.C. 5731) required the Secretary of
10 State to issue reports on conditions in Hong Kong
11 of interest to the United States, including the devel-
12 opment of democratic institutions in Hong Kong,
13 and the last report under section 301 was issued on
14 June 30, 2007.

15 (12) Failure to establish a genuine democratic
16 option to nominate and elect the Chief Executive of
17 Hong Kong by 2017 and to establish open and di-
18 rect democratic elections for all members of the
19 Hong Kong Legislative Council by 2020 would re-
20 duce confidence in the commitment of the Govern-
21 ment of the People's Republic of China to uphold its
22 obligations under international law, and would erode
23 the ability of Hong Kong to retain a high degree of
24 autonomy.

1 (13) During an October 2014 session, the
2 United Nations Human Rights Committee, con-
3 sisting of 18 independent experts, reviewed China’s
4 compliance with the International Covenant on Civil
5 and Political Rights with respect to Hong Kong. Ac-
6 cording to the session’s chair, the Committee agreed
7 on “the need to ensure universal suffrage, which
8 means both the right to be elected as well as the
9 right to vote. The main concerns of Committee
10 members were focused on the right to stand for elec-
11 tions without unreasonable restrictions.” Another
12 Committee member said that the “committee doesn’t
13 want candidates filtered. The problem is that Beijing
14 wants to vet candidates.”.

15 (14) The Congressional-Executive Commission
16 on China’s 2014 Annual Report found that press
17 freedom in Hong Kong is under threat, including re-
18 ports of “violent attacks on individuals associated
19 with the press, self-censorship among journalists,
20 and pressure from the Hong Kong and central gov-
21 ernments and mainland Chinese businesses.”.

22 (15) The Hong Kong Journalists Association’s
23 2014 Annual Report noted that Hong Kong journal-
24 ists rated self-censorship at 6.9 on a 10 point scale,

1 which the Association considered a “low level” of
2 press freedom.

3 (16) Hong Kong ranked 61st among 180 coun-
4 tries in Reporters Without Borders’ 2014 World
5 Press Freedom Index, down three places from the
6 previous year and a significant decline from 2002
7 when Hong Kong ranked 18th.

8 (17) By providing timely, uncensored, accurate
9 information in their native language, United States
10 international broadcast services, through the Broad-
11 casting Board of Governors, help those living in
12 countries with poor human rights records, such as
13 China, to better defend their human rights and hold
14 their government accountable.

15 **SEC. 3. STATEMENT OF POLICY.**

16 It is the policy of the United States—

17 (1) to reaffirm the principles and objectives set
18 forth in the United States-Hong Kong Policy Act of
19 1992, namely that—

20 (A) the United States has “a strong inter-
21 est in the continued vitality, prosperity, and
22 stability of Hong Kong”;

23 (B) “support for democratization is a fun-
24 damental principle of United States foreign pol-
25 icy”;

1 (C) “the human rights of the people of
2 Hong Kong are of great importance to the
3 United States and are directly relevant to
4 United States interests in Hong Kong”;

5 (D) human rights “serve as a basis for
6 Hong Kong’s continued economic prosperity”;
7 and

8 (E) Hong Kong must remain sufficiently
9 autonomous from the People’s Republic of
10 China to justify a different treatment under a
11 particular law of the United States, or any pro-
12 vision thereof, from that accorded the People’s
13 Republic of China;

14 (2) to support the democratic aspirations of the
15 people of Hong Kong, as guaranteed to them by the
16 Joint Declaration, the Basic Law, the International
17 Covenant on Civil and Political Rights, and the Uni-
18 versal Declaration of Human Rights;

19 (3) to urge the Government of the People’s Re-
20 public of China to uphold its commitments to Hong
21 Kong, including allowing the people of Hong Kong
22 to rule Hong Kong with a high degree of autonomy
23 and without undue interference, and ensuring that
24 Hong Kong voters freely enjoy the right to elect the

1 Chief Executive and all members of the Hong Kong
2 Legislative Council by universal suffrage;

3 (4) to support the establishment by 2017 of a
4 genuine democratic option to freely and fairly nomi-
5 nate and elect the Chief Executive of Hong Kong,
6 and the establishment by 2020 of open and direct
7 democratic elections for all members of the Hong
8 Kong Legislative Council; and

9 (5) to support press freedom and journalistic
10 independence, including the continuation of inter-
11 national broadcasting programming in Cantonese
12 that is readily accessible to Cantonese speaking pop-
13 ulations in China and in Hong Kong.

14 **SEC. 4. REINSTATEMENT OF REPORTING REQUIREMENTS**

15 **RELATED TO UNITED STATES-HONG KONG**
16 **RELATIONS.**

17 Section 301 of the United States-Hong Kong Policy
18 Act of 1992 (22 U.S.C. 5731) is amended—

19 (1) by striking “Not later than” and all that
20 follows through “the Secretary of State” and insert-
21 ing “Not later than March 31, 2015, and annually
22 thereafter for 10 years or until such earlier date
23 that the Secretary of State certifies that Hong Kong
24 has held free and fair elections for two consecutive

1 Chief Executive and two consecutive Legislative
2 Council periods, the Secretary of State”;

3 (2) by striking “Speaker of the House of Rep-
4 resentatives” and inserting “chairman of the Com-
5 mittee on Foreign Affairs of the House of Rep-
6 resentatives”;

7 (3) in paragraph (7), by striking “; and” and
8 inserting a semicolon;

9 (4) in paragraph (8), by striking the period at
10 the end and inserting “; and”; and

11 (5) by adding at the end the following new
12 paragraph:

13 “(9) matters in which Hong Kong is given sep-
14 arate treatment under the laws of the United States
15 from that accorded to the People’s Republic of
16 China and in accordance with this Act.”.

17 **SEC. 5. TREATMENT OF HONG KONG UNDER UNITED**
18 **STATES LAW.**

19 Title II of the United States-Hong Kong Policy Act
20 of 1992 (22 U.S.C. 5721 et seq.) is amended by inserting
21 after section 202 the following new section:

22 **“SEC. 202a. TREATMENT OF HONG KONG UNDER UNITED**
23 **STATES LAW.**

24 “(a) PRESIDENTIAL CERTIFICATION REQUIRE-
25 MENT.—Hong Kong is ineligible for treatment different

1 from that accorded the People’s Republic of China under
2 United States laws, agreements, or arrangements enacted
3 or entered into after the date of the enactment of this
4 Act unless the President certifies to Congress that Hong
5 Kong is sufficiently autonomous to justify such different
6 treatment.

7 “(b) WAIVER AUTHORITY.—The President may
8 waive the application of subsection (a) if the President—

9 “(1) determines that such a waiver is in the na-
10 tional security interests of the United States; and

11 “(2) on or before the date on which the waiver
12 takes effect, submits to the Committee on Foreign
13 Relations of the Senate and the Committee on For-
14 eign Affairs of the House of Representatives a notice
15 of and justification for the waiver.”.

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