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1ST SESSION

S. 821

To promote access for United States officials, journalists, and other citizens to Tibetan areas of the People's Republic of China, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 4, 2017

Mr. RUBIO (for himself and Ms. BALDWIN) introduced the following bill;
which was read twice and referred to the Committee on the Judiciary

A BILL

To promote access for United States officials, journalists, and other citizens to Tibetan areas of the People's Republic of China, 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 “Reciprocal Access to
5 Tibet Act of 2017”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

8 (1) The Government of the People's Republic of
9 China does not grant United States officials, jour-
10 nalists, and other citizens access to China on a basis

1 that is reciprocal to the access that the Government
2 of the United States grants Chinese officials, jour-
3 nalists, and citizens.

4 (2) The Government of China imposes greater
5 restrictions on travel to Tibetan areas than to other
6 areas of China.

7 (3) Officials of China have stated that Tibet is
8 open to foreign visitors.

9 (4) The Government of China is promoting
10 tourism in Tibetan areas, and at the Sixth Tibet
11 Work Forum in August 2015, Premier Li Keqiang
12 called for Tibet to build “major world tourism des-
13 tinations”.

14 (5) The Government of China requires for-
15 eigners to obtain permission from the Tibet Foreign
16 and Overseas Affairs Office or from the Tibet Tour-
17 ism Bureau to enter the Tibet Autonomous Region,
18 a restriction that is not imposed on travel to any
19 other provincial-level jurisdiction in China.

20 (6) The Department of State reports that—

21 (A) officials of the Government of the
22 United States submitted 39 requests for diplo-
23 matic access to the Tibet Autonomous Region
24 between May 2011 and July 2015, but only
25 four were granted; and

1 (B) when such requests are granted, diplo-
2 matic personnel are closely supervised and given
3 few opportunities to meet local residents not ap-
4 proved by authorities.

5 (7) The Government of China delayed United
6 States consular access for more than 48 hours after
7 an October 28, 2013, bus crash in the Tibet Autono-
8 mous Region, in which three citizens of the United
9 States died and more than a dozen others, all from
10 Walnut, California, were injured, undermining the
11 ability of the Government of the United States to
12 provide consular services to the victims and their
13 families, and failing to meet China's obligations
14 under the Convention on Consular Relations, done
15 at Vienna April 24, 1963 (21 UST 77).

16 (8) Following a 2015 earthquake that trapped
17 dozens of citizens of the United States in the Tibet
18 Autonomous Region, the United States Consulate
19 General in Chengdu faced significant challenges in
20 providing emergency consular assistance due to a
21 lack of consular access.

22 (9) The Country Reports on Human Rights
23 Practices for 2015 of the Department of State stat-
24 ed "With the exception of a few highly controlled
25 trips, the Chinese government also denied multiple

1 requests by foreign diplomats for permission to visit
2 the TAR.”.

3 (10) Tibetan-Americans, attempting to visit
4 their homeland, report having to undergo a discrimi-
5 natory visa application process, different from what
6 is typically required, at the Chinese embassy and
7 consulates in the United States, and often find their
8 requests to travel denied.

9 (11) The Country Reports on Human Rights
10 Practices for 2016 of the Department of State stat-
11 ed “The few visits to the TAR by diplomats and
12 journalists that were allowed were tightly controlled
13 by local authorities.”.

14 (12) A September 2016 article in the Wash-
15 ington Post reported that “The Tibet Autonomous
16 Region . . . is harder to visit as a journalist than
17 North Korea.”.

18 (13) The Government of China has failed to re-
19 spond positively to requests from the Government of
20 the United States to open a consulate in Lhasa,
21 Tibet Autonomous Region.

22 (14) The Foreign Correspondents Club of
23 China reports that—

24 (A) 2008 rules prevent foreign reporters
25 from visiting the Tibet Autonomous Region

1 without prior permission from the Government
2 of such Region;

3 (B) such permission has only rarely been
4 granted; and

5 (C) although the 2008 rules allow journal-
6 ists to travel freely in other parts of China, Ti-
7 betan areas outside such Region remain “effec-
8 tively off-limits to foreign reporters”.

9 (15) The Department of State reports that in
10 addition to having to obtain permission to enter the
11 Tibet Autonomous Region, foreign tourists—

12 (A) must be accompanied at all times by a
13 government-designated tour guide;

14 (B) are rarely granted permission to enter
15 the region by road;

16 (C) are largely barred from visiting around
17 the March anniversary of a 1959 Tibetan upris-
18 ing; and

19 (D) are banned from visiting the area
20 where Larung Gar, the world’s largest center
21 for the study of Tibetan Buddhism, and the site
22 of a large-scale campaign to expel students and
23 demolish living quarters, is located.

1 (16) Foreign visitors also face restrictions in
2 their ability to travel freely in Tibetan areas outside
3 the Tibet Autonomous Region.

4 (17) The Government of the United States gen-
5 erally allows journalists and other citizens of China
6 to travel freely within the United States. The Gov-
7 ernment of the United States requires diplomats
8 from China to notify the Department of State of
9 their travel plans, and in certain situations, the Gov-
10 ernment of the United States requires such dip-
11 lomats to obtain approval from the Department of
12 State before travel. However, where approval is re-
13 quired, it is almost always granted expeditiously.

14 (18) The United States regularly grants visas
15 to Chinese officials, scholars, and others who travel
16 to the United States to discuss, promote, and dis-
17 play the perspective of the Government of China on
18 the situation in Tibetan areas, even as the Govern-
19 ment of China restricts the ability of citizens of the
20 United States to travel to Tibetan areas to gain
21 their own perspective.

22 (19) Chinese diplomats based in the United
23 States generally avail themselves of the freedom to
24 travel to United States cities and lobby city councils,
25 mayors, and governors to refrain from passing reso-

1 lutions, issuing proclamations, or making statements
2 of concern on Tibet.

3 (20) The Government of China characterizes
4 statements made by officials of the United States
5 about the situation in Tibetan areas as inappro-
6 priate interference in the internal affairs of China.

7 **SEC. 3. DEFINITIONS.**

8 In this Act:

9 (1) APPROPRIATE CONGRESSIONAL COMMIT-
10 TEES.—The term “appropriate congressional com-
11 mittees” means—

12 (A) the Committee on Foreign Relations
13 and the Committee on the Judiciary of the Sen-
14 ate; and

15 (B) the Committee on Foreign Affairs and
16 the Committee on the Judiciary of the House of
17 Representatives.

18 (2) SENIOR LEADERSHIP POSITIONS.—The
19 term “senior leadership positions” means—

20 (A) at the national level, the Chairperson
21 of the National Committee of the Chinese Peo-
22 ple’s Political Consultative Conference and the
23 Head and Deputy Heads of the Communist
24 Party Central Committee’s United Front Work
25 Department;

1 (B) at the sub-national level—

2 (i) members of the Communist Party
3 Standing Committee of the Tibet Autono-
4 mous Region;

5 (ii) the Director of the Tibet Autono-
6 mous Region Tourism Bureau;

7 (iii) the heads of United Front Work
8 Departments of Sichuan, Qinghai, Gansu,
9 and Yunnan Provinces; and

10 (iv) members of the Communist Party
11 Standing Committees of the areas listed
12 under paragraph (3)(B); and

13 (C) any other individual determined by the
14 Secretary of State to be personally and substan-
15 tially involved in the formulation or execution of
16 policies related to access for foreigners to Ti-
17 betan areas.

18 (3) TIBETAN AREAS.—The term “Tibetan
19 areas” includes—

20 (A) the Tibet Autonomous Region; and

21 (B) the areas that the Chinese Government
22 designates as Tibetan Autonomous, as follows:

23 (i) Kanlho (Gannan) Tibetan Autono-
24 mous Prefecture, and Pari (Tianzhu) Ti-

1 betan Autonomous County located in
2 Gansu Province.

3 (ii) Golog (Guoluo) Tibetan Autono-
4 mous Prefecture, Malho (Huangnan) Ti-
5 betan Autonomous Prefecture, Tsojang
6 (Haibei) Tibetan Autonomous Prefecture,
7 Tsolho (Hainan) Tibetan Autonomous Pre-
8 fecture, Tsonub (Haixi) Mongolian and Ti-
9 betan Autonomous Prefecture, and Yulshul
10 (Yushu) Tibetan Autonomous Prefecture,
11 located in Qinghai Province.

12 (iii) Garze (Ganzi) Tibetan Autono-
13 mous Prefecture, Ngawa (Aba) Tibetan
14 and Qiang Autonomous Prefecture, and
15 Muli (Mili) Tibetan Autonomous County,
16 located in Sichuan Province.

17 (iv) Dechen (Diqing) Tibetan Autono-
18 mous Prefecture, located in Yunnan Prov-
19 ince.

20 **SEC. 4. ANNUAL REPORT.**

21 (a) IN GENERAL.—Not later than 90 days after the
22 date of the enactment of this Act, and annually thereafter,
23 the Secretary of State shall submit to the appropriate con-
24 gressional committees a report that includes—

1 (1) an assessment of the level of access Chinese
2 authorities granted diplomats, journalists, and tour-
3 ists from the United States to Tibetan areas, includ-
4 ing—

5 (A) a comparison with the level of access
6 granted to other areas of China;

7 (B) a comparison between the levels of ac-
8 cess granted to Tibetan and non-Tibetan areas
9 in relevant provinces;

10 (C) a comparison of the level of access in
11 the reporting year and the previous reporting
12 year; and

13 (D) a description of the required permits
14 and other measures that impede the freedom to
15 travel in Tibetan areas; and

16 (2) a list of each individual who holds a senior
17 leadership position.

18 (b) PUBLIC AVAILABILITY.—The report required
19 under subsection (a) shall be made available to the public
20 on the website of the Department of State.

21 **SEC. 5. INADMISSIBILITY OF CERTAIN ALIENS.**

22 (a) INELIGIBILITY FOR VISAS.—No individual who is
23 included on the most recent list required under section
24 4(a)(2) may be eligible to receive a visa to enter the

1 United States or be admitted to the United States if the
2 Secretary of State determines that—

3 (1)(A) the requirement for specific official per-
4 mission for foreigners to enter the Tibetan Autono-
5 mous Region remains in effect; or

6 (B) such requirement has been replaced by a
7 regulation that has a similar effect and requires for-
8 eign travelers to gain a level of permission to enter
9 the Tibet Autonomous Region that is not required
10 for travel to other provinces in China; and

11 (2) restrictions on travel by officials, journal-
12 ists, and citizens of the United States to areas des-
13 igned as “Tibetan Autonomous” in the provinces
14 of Sichuan, Qinghai, Yunnan, and Gansu of China
15 are greater than any restrictions on travel by such
16 officials and citizens to areas in such provinces that
17 are not so designated.

18 (b) CURRENT VISAS REVOKED.—The Secretary of
19 State shall revoke, in accordance with section 221(i) of
20 the Immigration and Nationality Act (8 U.S.C. 1201(i)),
21 the visa or other documentation to enter or be present in
22 the United States issued for an alien who would be ineli-
23 gible to receive such a visa or documentation under sub-
24 section (a).

25 (c) WAIVER FOR NATIONAL INTERESTS.—

1 (1) IN GENERAL.—The Secretary of State may
2 waive the application of subsection (a) or (b) in the
3 case of an alien if the Secretary determines that
4 such a waiver—

5 (A) is necessary to permit the United
6 States to comply with the Agreement Regarding
7 the Headquarters of the United Nations, signed
8 at Lake Success June 26, 1947, and entered
9 into force November 21, 1947 (TIAS 1676), or
10 any other applicable international obligation of
11 the United States; or

12 (B) is in the national security interests of
13 the United States.

14 (2) NOTIFICATION.—Upon granting a waiver
15 under paragraph (1), the Secretary of State shall
16 submit to the appropriate congressional committees
17 a document detailing the evidence and justification
18 for the necessity of such waiver, including, if such
19 waiver is granted pursuant to paragraph (1)(B),
20 how such waiver relates to the national security in-
21 terests of the United States.

22 **SEC. 6. SENSE OF CONGRESS ON VISA POLICY.**

23 (a) FINDING.—Congress finds that reciprocity forms
24 the basis of diplomatic law and the practice of mutual ex-
25 changes between countries.

1 (b) SENSE OF CONGRESS.—It is the sense of Con-
2 gress that—

3 (1) a country should give equivalent consular
4 access to the nationals of a foreign country in a
5 manner that is reciprocal to the consular access
6 granted by such foreign country to citizens of the
7 country; and

8 (2) the Secretary of State, when granting dip-
9 lomats from China access to parts of the United
10 States, should take into account the extent to which
11 the Government of China grants diplomats from the
12 United States access to parts of China, including the
13 level of access afforded to such diplomats to Tibetan
14 areas.

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