

117TH CONGRESS
1ST SESSION

H. R. 3984

To amend title 28, United States Code, to provide a civil action against a foreign state for deliberate concealment or distortion of information with respect to an international public health emergency, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 17, 2021

Mr. CRENSHAW introduced the following bill; which was referred to the
Committee on the Judiciary

A BILL

To amend title 28, United States Code, to provide a civil action against a foreign state for deliberate concealment or distortion of information with respect to an international public health emergency, 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 “Holding the Chinese
5 Communist Party Accountable for Infecting Americans
6 Act of 2021”.

7 **SEC. 2. FINDINGS.**

8 Congress finds the following:

1 (1) The Chinese Communist Party covered up
2 the existence and downplayed the seriousness of
3 SARS-CoV-2, hereinafter referred to as COVID-
4 19, at least as early as December 2019.

5 (2) Chinese government officials engaged in a
6 campaign to silence and delegitimize doctors—including Dr. Li Wenliang—who were warning their
7 colleagues and others about COVID-19.

9 (3) Chinese government officials ordered the de-
10 struction of laboratory samples and research regard-
11 ing COVID-19 in January 2020.

12 (4) Chinese government officials have detained
13 or otherwise silenced researchers, journalists, and
14 citizens who attempted to share information that
15 could have proven unflattering to the Chinese gov-
16 ernment's response to the COVID-19 outbreak.

17 (5) Chinese government officials have expelled
18 American journalists who were covering the COVID-
19 19 outbreak in China.

20 (6) Chinese government officials have attempted
21 to censor or destroy academic research into COVID-
22 19 and its origins that might disagree with the offi-
23 cial positions of the Chinese government.

24 (7) Chinese government officials have inten-
25 tionally underreported or altered official numbers of

1 COVID–19 infections and deaths in China, leading
2 world health experts to make flawed analyses that
3 severely underestimated the nature and seriousness
4 of COVID–19.

5 (8) Academic studies have shown that, had ap-
6 propriate interventions occurred to stop the spread
7 of COVID–19 even just weeks earlier, the spread of
8 COVID–19 would have been severely curtailed.

9 (9) The cover-up of COVID–19 by the Chinese
10 government has caused significant economic harm in
11 the United States and around the world.

12 (10) The cover-up of COVID–19 by the Chinese
13 government has caused significant death and injury
14 in the United States and around the world.

15 (11) The cover-up of COVID–19 by the Chinese
16 government is, at minimum, grossly negligent behav-
17 ior causing significant injury.

18 **SEC. 3. PURPOSE.**

19 The purpose of this Act is to provide civil litigants
20 with the broadest possible basis, consistent with the Con-
21 stitution of the United States, to seek relief against per-
22 sons, entities, and foreign countries, wherever acting and
23 wherever they may be found, that are responsible for, or
24 complicit in ordering, controlling, or otherwise directing
25 acts intended to deliberately conceal or distort the exist-

1 ence or nature of COVID–19, if such acts are found to
 2 have likely contributed to the global COVID–19 pandemic.

3 **SEC. 4. RESPONSIBILITY OF FOREIGN STATES FOR DELIB-**
 4 **ERATE CONCEALMENT OR DISTORTING IN-**
 5 **FORMATION ABOUT INTERNATIONAL PUBLIC**
 6 **HEALTH EMERGENCIES.**

7 (a) IN GENERAL.—Chapter 97 of title 28, United
 8 States Code, is amended by inserting after section 1605B
 9 the following new section:

10 **“SEC. 1605C. RESPONSIBILITY OF FOREIGN STATES FOR**
 11 **DELIBERATE CONCEALMENT OR DISTORTING**
 12 **INFORMATION ABOUT INTERNATIONAL PUB-**
 13 **LIC HEALTH EMERGENCIES OF INTER-**
 14 **NATIONAL CONCERN.**

15 “(a) RESPONSIBILITY OF FOREIGN STATE.—A for-
 16 eign state shall not be immune from the jurisdiction of
 17 the courts of the United States in any case in which money
 18 damages are sought against a foreign state for physical
 19 injury or death, or injury to property or economic inter-
 20 ests, occurring in the United States and caused by—

21 “(1) the spread of COVID–19; and

22 “(2) a tortious act or acts, including acts in-
 23 tended to deliberately conceal or distort the existence
 24 or nature of COVID–19, of the foreign state, or of
 25 any official, employee, or agent of that foreign state

1 while acting within the scope of his or her office,
2 employment, or agency, regardless where the
3 tortious act or acts of the foreign state occurred.

4 “(b) EXCLUSIVE JURISDICTION.—The United States
5 District Court for the Southern District of New York, the
6 United States District Court for the Northern District of
7 California, the United States District Court for the North-
8 ern District of Illinois, and the United States District
9 Court for the Southern District of Texas shall have origi-
10 nal and exclusive jurisdiction over all actions in which a
11 foreign state is subject to the jurisdiction of a court of
12 the United States under this section. Appellate jurisdic-
13 tion for such actions shall be exclusively reserved to the
14 United States District Court of Appeals for the Federal
15 Circuit.

16 “(c) STAY OF ACTIONS PENDING FOREIGN STATE
17 NEGOTIATIONS.—

18 “(1) INTERVENTION.—The Attorney General
19 may intervene in any action in which a foreign state
20 is subject to the jurisdiction of a court of the United
21 States under this section for the purpose of seeking
22 a stay of the civil action, in whole or in part.

23 “(2) STAY.—

24 “(A) IN GENERAL.—A court of the United
25 States shall stay a proceeding under this sec-

tion against a foreign state or any official, employee, or agent of the foreign state, if the Secretary of State certifies that the United States is engaged in good faith discussions with the foreign state defendant, or any other defendant, with respect to the resolution of a claim against such a defendant.

“(B) DURATION.—

“(i) IN GENERAL.—A stay under this section may be granted for not more than 180 days.

“(ii) EXTENSION.—

“(I) IN GENERAL.—The Attorney General may petition the court for an extension of the stay for additional 180-day periods.

“(II) RECERTIFICATION.—A

court may grant an extension under clause (I) if the Secretary of State recertifies that the United States remains engaged in good faith discussions with the foreign state defendant or any other defendant concerning the resolution of a claim against the foreign state or any official, employee, or

1 agent of the foreign state, as to whom
2 a stay of claims is sought.

3 “(d) DISMISSAL OF ACTIONS FOLLOWING FOREIGN
4 STATE AGREEMENT.—

5 “(1) INTERVENTION.—The Attorney General
6 may intervene in any action in which a foreign state
7 is subject to the jurisdiction of a court of the United
8 States under this section for the purpose of seeking
9 the dismissal of the case.

10 “(2) DISMISSAL WITH PREJUDICE.—A court of
11 the United States may dismiss with prejudice a pro-
12 ceeding under this section against a foreign state or
13 any official, employee, or agent of the foreign state
14 if the Secretary of State certifies that the United
15 States and the foreign state have entered into an
16 agreement with respect to the resolution of a claim
17 against such a defendant, regardless of whether the
18 plaintiff is a party to such agreement or consents to
19 the dismissal.

20 “(e) SEVERABILITY.—If any provision of this Act or
21 any amendment made by this Act, or the application of
22 a provision or amendment to any person or circumstance,
23 is held to be invalid, the remainder of this Act and the
24 amendments made by this Act, and the application of the
25 provisions and amendments to any other person not simi-

1 larly situated or to other circumstances, shall not be af-
 2 fected by the holding.

3 “(f) RULE OF CONSTRUCTION.—A foreign state shall
 4 not be subject to the jurisdiction of the courts of the
 5 United States under this section on the basis of a tortious
 6 act or acts that constitute mere negligence.

7 “(g) APPLICATION DATE.—The amendments made
 8 by this Act shall apply to a civil action—

9 “(1) pending on, or commenced on or after, the
 10 date of enactment of this Act; and

11 “(2) arising out of an injury to a person from
 12 COVID–19 on or after January 1, 2020, or arising
 13 out of an injury to property or business during the
 14 pendency of the National Emergency Concerning the
 15 Novel Coronavirus Disease (COVID–19) Outbreak
 16 declared by the President on March 13, 2020, under
 17 the National Emergencies Act (50 U.S.C. 1601 et
 18 seq.).

19 “(h) DEFINITION.—In this section, the term
 20 ‘COVID–19’ has the meaning given that term in section
 21 2102 of the Coronavirus Aid, Relief, and Economic Secu-
 22 rity Act (Public Law 116–136).”.

23 (b) TECHNICAL AND CONFORMING AMENDMENTS.—

24 (1) TABLE OF SECTIONS.—The table of sections
 25 for chapter 97 of title 28, United States Code, is

1 amended by inserting after the item relating to sec-
2 tion 1605B the following:

“1605C. Responsibility of foreign states for deliberate concealment or distorting
information about international public health emergencies of
international concern.”.

3 (2) CONFORMING AMENDMENT.—Section
4 1605(g)(1)(A) of title 28, United States Code, is
5 amended by striking “or section 1605B” and insert-
6 ing “, section 1605B, or section 1605C”.

7 (c) EFFECTIVE DATE.—The amendments made by
8 this Act shall take effect on the date of the enactment
9 of this Act.

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