

AMENDMENT NO. _____ Calendar No. _____

Purpose: In the nature of a substitute.

IN THE SENATE OF THE UNITED STATES—119th Cong., 2d Sess.

S. 4009

To provide for the imposition of sanctions with respect to forced organ harvesting within the People's Republic of China, and for other purposes.

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT IN THE NATURE OF A SUBSTITUTE intended
to be proposed by Mr. CRUZ

Viz:

1 Strike all after the enacting clause and insert the fol-

2 lowing:

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Falun Gong and Vic-

5 tims of Forced Organ Harvesting Protection Act”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

8 (1) APPROPRIATE CONGRESSIONAL COMMIT-

9 TEES.—The term “appropriate congressional com-

10 mittees” means—

1 (A) the Committee on Foreign Affairs and
2 the Permanent Select Committee on Intelligence
3 of the House of Representatives; and

4 (B) the Committee on Foreign Relations,
5 the Committee on Banking, Housing, and
6 Urban Affairs, and the Select Committee on In-
7 telligence of the Senate.

8 (2) **FORCED ORGAN HARVESTING.**—The term
9 “forced organ harvesting” means the removal of one
10 or more organs from an individual by means of coer-
11 cion, abduction, deception, fraud, or abuse of power
12 or a position of vulnerability.

13 (3) **INTELLIGENCE COMMUNITY.**—The term
14 “intelligence community” has the meaning given the
15 term in section 3 of the National Security Act of
16 1947 (50 U.S.C. 3003).

17 (4) **ORGAN.**—The term “organ” has the mean-
18 ing given the term “human organ” in section
19 301(c)(1) of the National Organ Transplant Act (42
20 U.S.C. 274e(c)(1)).

21 **SEC. 3. FINDINGS.**

22 Congress makes the following findings:

23 (1) Public and private organizations have per-
24 sistently expressed concerns regarding organ trans-
25 plant policies and practices in the People’s Republic

1 of China, including allegations of forced organ har-
2 vesting of those targeted by authorities of the Peo-
3 ple’s Republic of China based on religious beliefs,
4 ethnic background, or other affiliations.

5 (2) The 2023 International Religious Freedom
6 Report of the Department of State stated, “Civil so-
7 ciety organizations continued to express concern over
8 reports that authorities [of the People’s Republic of
9 China] forced members of religious organizations, in
10 particular Falun Gong members and ethnic
11 Uyghurs, to serve as organ donors.”.

12 (3) The Government of the People’s Republic of
13 China has failed to provide a full, credible, and inde-
14 pendently verifiable response to repeated inter-
15 national calls for increased accountability and trans-
16 parency for its organ transplant policies and prac-
17 tices, particularly allegations related to forced organ
18 harvesting.

19 (4) The United States Government, including
20 the intelligence community, has yet to provide its
21 formal assessment of allegations related to systemic
22 organ harvesting practices by the Government of the
23 People’s Republic of China, including against Falun
24 Gong practitioners.

1 **SEC. 4. SENSE OF CONGRESS.**

2 It is the sense of Congress that the United States
3 Government should—

4 (1) investigate allegations of systemic forced
5 organ harvesting in the People’s Republic of China,
6 including incidents involving Falun Gong practi-
7 tioners; and

8 (2) condemn illegal, coercive, non-consensual, or
9 non-transparent organ procurement and transplan-
10 tation practices, including forced organ harvesting
11 from prisoners of conscience.

12 **SEC. 5. IMPOSITION OF SANCTIONS WITH RESPECT TO**
13 **FORCED ORGAN HARVESTING WITHIN THE**
14 **PEOPLE’S REPUBLIC OF CHINA.**

15 (a) IMPOSITION OF SANCTIONS.—The President shall
16 impose the sanctions described in subsection (c) with re-
17 spect to each foreign person included in the most recent
18 list submitted under subsection (b).

19 (b) LIST OF PERSONS.—

20 (1) IN GENERAL.—Not later than 180 days
21 after the date of the enactment of this Act, the
22 President shall submit to the appropriate congres-
23 sional committees a list of foreign persons that the
24 President determines to have knowingly and directly
25 engaged in or facilitated forced organ harvesting
26 within the People’s Republic of China.

1 (2) UPDATES OF LISTS.—The President shall
2 submit to the appropriate congressional committees
3 an updated list under paragraph (1)—

4 (A) as new information becomes available;

5 (B) not later than one year after the date
6 of the enactment of this Act; and

7 (C) annually thereafter until the date of
8 termination under subsection (h).

9 (3) FORM.—The list required by paragraph (1),
10 and any updates to the list required by paragraph
11 (2), shall be submitted in unclassified form, but may
12 include a classified annex.

13 (c) SANCTIONS DESCRIBED.—The sanctions de-
14 scribed in this subsection are the following:

15 (1) BLOCKING OF PROPERTY.—The President
16 shall exercise all of the powers granted to the Presi-
17 dent by the International Emergency Economic
18 Powers Act (50 U.S.C. 1701 et seq.) (except that
19 the requirements of section 202 of such Act (50
20 U.S.C. 1701) shall not apply) to the extent nec-
21 essary to block and prohibit all transactions in prop-
22 erty and interests in property of a foreign person on
23 the most recent list submitted under subsection (b)
24 if such property and interests in property are in the
25 United States, come within the United States, or are

1 or come within the possession or control of a United
2 States person.

3 (2) INADMISSIBILITY OF CERTAIN INDIVID-
4 UALS.—

5 (A) INELIGIBILITY FOR VISAS, ADMISSION,
6 OR PAROLE.—An alien included in the most re-
7 cent list submitted under subsection (b) is—

8 (i) inadmissible to the United States;

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

12 (iii) otherwise ineligible to be admitted
13 or paroled into the United States or to re-
14 ceive any other benefit under the Immigra-
15 tion and Nationality Act (8 U.S.C. 1101 et
16 seq.).

17 (B) CURRENT VISA REVOKED.—

18 (i) IN GENERAL.—An alien described
19 in subparagraph (A) is subject to revoca-
20 tion of any visa or other entry documenta-
21 tion regardless of when the visa or other
22 entry documentation is or was issued.

23 (ii) IMMEDIATE EFFECT.—A revoca-
24 tion under clause (i) shall, in accordance

1 with section 221(i) of the Immigration and
2 Nationality Act (8 U.S.C. 1201(i))—

3 (I) take effect immediately; and

4 (II) automatically cancel any
5 other valid visa or entry documenta-
6 tion that is in the alien's possession.

7 (3) EXCEPTION.—Sanctions under paragraph
8 (2) shall not apply to an alien if admitting or parol-
9 ing the alien into the United States is necessary to
10 permit the United States to comply with the Agree-
11 ment regarding the Headquarters of the United Na-
12 tions, signed at Lake Success June 26, 1947, and
13 entered into force November 21, 1947, between the
14 United Nations and the United States, or other ap-
15 plicable international obligations of the United
16 States.

17 (d) PENALTIES.—The penalties provided for in sub-
18 sections (b) and (c) of section 206 of the International
19 Emergency Economic Powers Act (50 U.S.C. 1705) shall
20 apply to a person who violates, attempts to violate, con-
21 spires to violate, or causes a violation of regulations pro-
22 mulgated to carry out subsection (a) to the same extent
23 that such penalties apply to a person who commits an un-
24 lawful act described in section 206(a) of that Act.

1 (e) EXCEPTION TO COMPLY WITH NATIONAL SECUR-
2 RITY.—The following activities shall be exempt from sanc-
3 tions under this section:

4 (1) Activities subject to the reporting require-
5 ments under title V of the National Security Act of
6 1947 (50 U.S.C. 3091 et seq.).

7 (2) Any authorized intelligence or law enforce-
8 ment activities of the United States.

9 (f) EXCEPTION RELATING TO PROVISION OF HUMAN-
10 ITARIAN ASSISTANCE.—Sanctions under this section may
11 not be imposed with respect to transactions or the facilita-
12 tion of transactions for—

13 (1) the sale of agricultural commodities, food,
14 or medicine;

15 (2) the provision of humanitarian assistance;

16 (3) financial transactions relating to humani-
17 tarian assistance or for humanitarian purposes; or

18 (4) transporting goods or services that are nec-
19 essary to carry out operations relating to humani-
20 tarian assistance or humanitarian purposes.

21 (g) WAIVER AUTHORITY.—

22 (1) WAIVER.—The President may, on a case by
23 case basis, waive the imposition of any sanction
24 under this section if the President determines such

1 waiver is in the national security interests of the
2 United States.

3 (2) REPORTS.—Not later than 120 days after
4 the date on which the President submits the first list
5 under subsection (b)(1), and every 120 days there-
6 after until the date of termination under subsection
7 (h), the President shall submit to the appropriate
8 congressional committees a report on the extent to
9 which the President has used the waiver authority
10 under paragraph (1) during the 120-day period pre-
11 ceding submission of the report.

12 (h) SUNSET.—The authority to impose sanctions
13 under this section shall terminate on the date that is 5
14 years after the date of the enactment of this Act.

15 (i) DEFINITIONS.—In this section:

16 (1) ADMISSION; ADMITTED; ALIEN; LAWFULLY
17 ADMITTED FOR PERMANENT RESIDENCE.—The
18 terms “admission”, “admitted”, “alien”, and “law-
19 fully admitted for permanent residence” have the
20 meanings given those terms in section 101 of the
21 Immigration and Nationality Act (8 U.S.C. 1101).

22 (2) FOREIGN PERSON.—The term “foreign per-
23 son” means an individual or entity that is not a
24 United States person.

1 (3) KNOWINGLY.—The term “knowingly”, with
2 respect to conduct, a circumstance, or a result,
3 means that a person had actual knowledge, or
4 should have known, of the conduct, the cir-
5 cumstance, or the result.

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

8 (A) a United States citizen or an alien law-
9 fully admitted for permanent residence to the
10 United States;

11 (B) an entity organized under the laws of
12 the United States or any jurisdiction within the
13 United States, including a foreign branch of
14 such an entity; or

15 (C) any person located in the United
16 States.

17 **SEC. 6. REPORT ON ORGAN TRANSPLANT POLICIES AND**
18 **PRACTICES OF THE PEOPLE’S REPUBLIC OF**
19 **CHINA.**

20 (a) IN GENERAL.—Not later than one year after the
21 date of the enactment of this Act, the Secretary of State,
22 in consultation with the Secretary of Health and Human
23 Services, the Director of the National Institutes of Health,
24 and the heads of relevant elements of the intelligence com-
25 munity, shall submit to the appropriate congressional com-

1 mitted a report on the organ transplant policies and prac-
2 tices of the People's Republic of China.

3 (b) MATTERS TO BE INCLUDED.—The report re-
4 quired under subsection (a) shall include—

5 (1) a formal determination as to whether the
6 Government of the People's Republic of China en-
7 gages, or formerly engaged, in systemic forced organ
8 harvesting practices and policies;

9 (2) a summary of de jure and de facto policies
10 toward organ transplantation in the People's Repub-
11 lic of China, including with respect to prisoners of
12 conscience (including practitioners of Falun Gong),
13 other prisoners, and victims of forced organ har-
14 vesting;

15 (3)(A) the number of organ transplants that
16 are known to occur or are estimated to occur on an
17 annual basis in the People's Republic of China;

18 (B) the number of known or estimated vol-
19 untary organ donors in the People's Republic of
20 China;

21 (C) an assessment of the sources of organs for
22 transplant in the People's Republic of China; and

23 (D) an assessment of the time, in days, that it
24 takes to procure an organ for transplant within the
25 medical system of the People's Republic of China

1 and an assessment of whether such timetable is pos-
2 sible based on the number of known or estimated
3 voluntary organ donors in the People’s Republic of
4 China;

5 (4) a list of all United States grants during the
6 10 years before the date of the enactment of this
7 Act that have supported research on organ trans-
8 plantation in the People’s Republic of China or in
9 collaboration between an entity of the People’s Re-
10 public of China and a United States entity; and

11 (5) if the determination made under paragraph
12 (1) is that the Government of the People’s Republic
13 of China engages, or formerly engaged, in systemic
14 forced organ harvesting practices and policies, a de-
15 termination as to whether forced organ harvesting
16 within the People’s Republic of China constitutes an
17 “atrocious” (as such term is defined in section 6 of
18 the Elie Wiesel Genocide and Atrocities Prevention
19 Act of 2018 (Public Law 115–441; 22 U.S.C. 2656
20 note)).

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

1 **SEC. 7. EXCEPTION RELATING TO IMPORTATION OF**
2 **GOODS.**

3 (a) **IN GENERAL.**—The authorities and requirements
4 to impose sanctions authorized under this Act shall not
5 include the authority or requirement to impose sanctions
6 on the importation of goods.

7 (b) **GOOD DEFINED.**—In this section, the term
8 “good” means any article, natural or man-made sub-
9 stance, material, supply or manufactured product, includ-
10 ing inspection and test equipment, and excluding technical
11 data.