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(Original Signature of Member)

117TH CONGRESS
1ST SESSION

H. R. _____

To identify and take action against international trade practices of high income countries that unfairly exploit innovation by deviating from market-based policies and unfairly exploit United States innovation, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. ARRINGTON introduced the following bill; which was referred to the
Committee on _____

A BILL

To identify and take action against international trade practices of high income countries that unfairly exploit innovation by deviating from market-based policies and unfairly exploit United States innovation, 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 “_____ Act
5 of 2021”.

1 **SEC. 2. FINDINGS; SENSE OF CONGRESS.**

2 (a) FINDINGS.—Congress finds the following:

3 (1) Pharmaceutical price controls in foreign
4 markets distort global trade flows and competition
5 by depressing the prices of innovative drugs and ex-
6 ploiting pharmaceutical innovations researched and
7 developed in the United States.

8 (2) By setting prices at levels that are not mar-
9 ket-based, such price controls undervalue the dis-
10 covery of new, innovative treatments, diminish op-
11 portunities and incentives for global innovation in
12 new medicines, and threaten to restrict access to
13 new treatments and cures for United States patients
14 and consumers.

15 (3) Recognizing these dynamics, it is critical
16 that the United States use all available trade tools
17 to address such free-riding, consistent with the nego-
18 tiating objectives set forth in the Bipartisan Con-
19 gressional Trade Priorities and Accountability Act of
20 2015 (19 U.S.C. 4201 et seq.) to ensure that foreign
21 government regulatory reimbursement regimes are
22 transparent, provide procedural fairness, are non-
23 discriminatory, and provide full market access to
24 United States products.

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

1 (1) ensuring the security of innovative and af-
2 fordable healthcare is a top priority for Americans
3 and for Congress;

4 (2) foreign government policies that mandate
5 artificially low drug prices in foreign markets under-
6 mine this priority by reducing global incentives to in-
7 vest in the development of new medicines;

8 (3) such exploitative behavior unfairly shifts the
9 cost of developing new treatments to the United
10 States and unduly relies on America's patients and
11 taxpayers to finance global pharmaceutical innova-
12 tion; and

13 (4) safeguarding access to life-saving treat-
14 ments for American patients requires combating
15 such behavior so that foreign countries pay their fair
16 share of the costs associated with the development of
17 new drugs.

18 **SEC. 3. CHIEF PHARMACEUTICAL TRADE NEGOTIATOR.**

19 (a) ESTABLISHMENT.—Section 141(b) of the Trade
20 Act of 1974 (19 U.S.C. 2171(b)) is amended as follows:

21 (1) In paragraph (2)—

22 (A) in the first sentence, by inserting “one
23 Chief Pharmaceutical Trade Negotiator,” after
24 “one Chief Agricultural Negotiator,”; and

1 (B) by inserting “the Chief Pharmaceutical
2 Trade Negotiator,” after “the Chief Agricultural
3 Negotiator,” each place it appears.

4 (2) By adding at the end the following new
5 paragraph:

6 “(7) The principal functions of the Chief Pharmaceutical
7 Trade Negotiator shall be to conduct
8 trade negotiations, enforce trade agreements relating
9 to United States pharmaceutical products, and take
10 appropriate action to address acts, policies, or practices
11 of high-income countries that have a significant
12 adverse impact on the ability of United States pharmaceutical
13 manufacturers to enjoy full market access. The Chief Pharmaceutical
14 Trade Negotiator shall be a vigorous advocate on behalf of United
15 States manufacturers and consumers of pharmaceutical
16 products and shall perform such other functions
17 as the United States Trade Representative
18 may direct.”.

19 (b) ANNUAL REPORT.—
20

21 (1) LIST OF HIGH-INCOME COUNTRIES.—The
22 United States Trade Representative shall compile
23 and annually update a list of each foreign country
24 that is defined as “high-income” by the official sta-

1 tistics of the International Bank for Reconstruction
2 and Development of the World Bank.

3 (2) REPORT REQUIRED.—With respect to each
4 country included on the most recent list required
5 under paragraph (1), the United States Trade Rep-
6 resentative, acting through the Chief Pharmaceutical
7 Trade Negotiator, (as established pursuant to the
8 amendments made by subsection (a)) shall annually
9 submit to the Committee on Ways and Means of the
10 House of Representatives and the Committee on Fi-
11 nance of the Senate a report that—

12 (A) describes in detail the results of a re-
13 view of the acts, policies, and practices of such
14 country relating to the trade in pharmaceutical
15 products in the previous fiscal year;

16 (B) determines whether such acts, policies,
17 or practices—

18 (i) are not developed and implemented
19 in a fair, nondiscriminatory, and trans-
20 parent manner;

21 (ii) are not market-based or do not
22 appropriately recognize the value of inno-
23 vative medicines;

24 (iii) deny reciprocal market access for
25 United States products;

1 (iv) diminish incentives for innovation
2 in a manner that delays, prevents, or oth-
3 erwise adversely impacts the introduction
4 of new medicines in the United States;

5 (v) violate or are inconsistent with the
6 provisions of, or otherwise deny benefits to
7 the United States under, any bilateral or
8 multilateral trade agreement with such
9 country;

10 (vi) are unjustifiable or impose a sig-
11 nificant burden or unreasonable or dis-
12 criminatory restriction on United States
13 commerce with such country; and

14 (C) describes the current status of any re-
15 sponsive actions taken by the United States
16 with respect to acts, policies, or practices for
17 which the United States Trade Representative
18 has determined and included in any prior re-
19 port, pursuant to subparagraph (B), that the
20 interests of the United States are harmed, in-
21 cluding responsive actions pursuant to title III
22 of the Trade Act of 1974 (19 U.S.C. 2411 et
23 seq.).

24 (c) RESPONSE TO ADVERSE ACTIONS.—Not later
25 than 30 days after the United States Trade Representa-

1 tive determines that an act, policy, or practice of a country
2 included in the applicable list required under subsection
3 (b)(1) meets any of the criteria described in subsection
4 (b)(2)(B), the United States Trade Representative shall
5 submit to Committee on Ways and Means of the House
6 of Representatives and the Committee on Finance of the
7 Senate a plan to respond to such adverse action, which
8 may include initiating an investigation under chapter 1
9 title III of the Trade Act of 1974 (19 U.S.C. 2411 et seq.)
10 in accordance with section 302(b)(1) of such chapter.