

107TH CONGRESS
1ST SESSION

H. R. 23

To permit congressional review of certain Presidential orders.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 3, 2001

Mr. BARR of Georgia introduced the following bill; which was referred to the
Committee on the Judiciary

A BILL

To permit congressional review of certain Presidential orders.

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 “Presidential Order
5 Limitation Act of 2001”.

6 **SEC. 2. FINDINGS.**

7 (a) **POWERS OF THE PRESIDENT.**—The Congress
8 finds that the President possesses only the following pow-
9 ers, as set forth in the Constitution:

10 (1) **COMMANDER IN CHIEF.**—“The President
11 shall be Commander in Chief of the Army and Navy
12 of the United States, and of the Militia of the sev-

1 eral States, when called into actual Service of the
2 United States” (article II, section 2, clause 1).

3 (2) OPINION OF DEPARTMENT HEADS.—“[H]e
4 may require the Opinion, in writing, of the principal
5 Officer in each of the executive Departments, upon
6 any Subject relating to the Duties of their respective
7 Offices” (article II, section 2, clause 1).

8 (3) REPRIEVES AND PARDONS.—“[H]e shall
9 have Power to grant Reprieves and Pardons for Of-
10 fenses against the United States, except in Cases of
11 Impeachment” (article II, section 2, clause 1).

12 (4) TREATIES.—“He shall have the Power, by
13 and with the Advice and Consent of the Senate, to
14 make Treaties, provided two thirds of the Senators
15 present concur” (article II, section 2, clause 2).

16 (5) APPOINTMENTS.—“[H]e shall nominate,
17 and by and with the Advice and Consent of the Sen-
18 ate, shall appoint Ambassadors, other public Min-
19 isters and Consuls, Judges of the Supreme Court,
20 and all other Officers of the United States, whose
21 appointments are not herein otherwise provided for,
22 and which may be established by Law” (article II,
23 section 2, clause 2).

24 (6) VACANCIES.—“The President shall have
25 Power to fill up all Vacancies that may happen dur-

1 ing the Recess of the Senate, by granting Commis-
2 sions which shall expire at the End of their next
3 Session” (article II, section 2, clause 3).

4 (7) CONVENING OR ADJOURNING CONGRESS.—
5 “[H]e may, on extraordinary Occasions, convene
6 both Houses, or either of them, and in Case of Dis-
7 agreement between them, with Respect to the Time
8 of Adjournment, he may adjourn them to such Time
9 as he shall think proper” (article II, section 3).

10 (8) RECEIVING AMBASSADORS.—“[H]e shall re-
11 ceive Ambassadors and other public Ministers” (arti-
12 cle II, section 3).

13 (9) COMMISSIONING OFFICERS.—“[He] shall
14 Commission all the Officers of the United States”
15 (article II, section 3).

16 (b) DUTY TO EXECUTE LAWS DEPENDENT ON CON-
17 GRESS.—The Congress finds that the President’s constitu-
18 tional duty to “take Care that the Laws be faithfully exe-
19 cuted” (article II, section 3) is wholly dependent upon the
20 enactments of the Congress and therefore is subject to
21 such limits and oversight as the Congress may by law pro-
22 vide.

1 **SEC. 3. OPPORTUNITY FOR CONGRESSIONAL REVIEW OF**
2 **PRESIDENTIAL ORDERS.**

3 (a) TRANSMISSION OF PRESIDENTIAL ORDERS TO
4 CONGRESS.—The President shall transmit a copy of each
5 Presidential order to—

6 (1) the Speaker of the House of Representa-
7 tives;

8 (2) the President pro tempore of the Senate;
9 and

10 (3) the chairperson and ranking member of
11 each standing and select committee of the House of
12 Representatives and the Senate.

13 (b) TIME BEFORE TAKING EFFECT.—Except as pro-
14 vided in subsection (c), to the extent a Presidential order
15 is issued under authority granted by any enactment of the
16 Congress, such order shall not take effect earlier than 30
17 days after its transmission pursuant to subsection (a),
18 during which time the Congress may review and take any
19 action it deems appropriate with regard to such order (or
20 portion thereof).

21 (c) EXCEPTION FOR EMERGENCIES.—The time limi-
22 tation in subsection (b) shall not apply in the case of a
23 Presidential order describing an emergency which requires
24 the order to take effect at an earlier time to—

25 (1) protect the national security;

26 (2) prevent physical injury to any individual;

1 (3) provide disaster relief; or

2 (4) safeguard an American foreign policy inter-
3 est.

4 (d) DEFINITION OF PRESIDENTIAL ORDER.—In this
5 Act, the term “Presidential order” means—

6 (1) any Executive order, Presidential proclama-
7 tion, or Presidential directive; and

8 (2) any other Presidential or Executive action
9 by whatever name described purporting to have pre-
10 scriptive effect that is issued under the authority of
11 the President or any other officer or employee of the
12 executive branch.

13 (e) LIMITATION OF APPLICATION.—This Act does
14 not apply in any circumstance in which the Constitution
15 prevents its application.

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