

Judiciary Committee Policy

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Division I of the *America COMPETES Act* versus the *U.S. Innovation and Competition Act*

Overview

The House America Creating Opportunities for Manufacturing, Pre-Eminence in Technology and Economic Strength (COMPETES) Act and the Senate U.S. Innovation and Competitiveness Act (USICA) differ significantly in their judiciary titles, containing only one identical provision to update filing fees for mergers and provide additional funding for antitrust enforcement agencies. The judiciary title in the COMPETES Act is more expansive than the corresponding title in USICA, as the latter contains only one additional provision directing the Commerce Department to examine the current “startup slump,” while the COMPETES Act includes additional provisions related to intellectual property and immigration.

	HOUSE: America COMPETES Act	SENATE: USICA
SHOP SAFE Act	✓	✗
Merger Filing Fee Modernization Act	✓	✓
Let Immigrants Kickstart Employment Act	✓	✗
Doctoral STEM Graduates	✓	✗
Other Entrepreneurship	✗	✓

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	America COMPETES Act	USICA
SHOP SAFE Act of 2021	Unlike <i>USICA</i> , the <i>COMPETES Act</i> contains the text of the <i>SHOP SAFE Act of 2021</i> (S. 1843/H.R. 5374), the House version of which was approved by the House Judiciary Committee in September 2021. The bill would make e-commerce platforms with annual sales of \$500,000 or more, or those that received ten notices identifying counterfeit goods that implicate health and safety, liable for infringement of a registered trademark by a third-party seller of goods if the seller uses a counterfeit mark in connection with selling or advertising goods on the platform. The platform may avoid such liability by taking certain actions before the infringing act, including by requiring sellers to have a registered agent or a verified address for service of process in the U.S. and agree to not use counterfeit marks, in addition to verifying the seller's identity and contact information. (Sec. 80103)	No such provision.
Merger Filing Fee Modernization Act of 2021	Premerger Notification Filing Fees: Both the <i>COMPETES Act</i> and <i>USICA</i> contain the text of the <i>Merger Filing Fee Modernization Act of 2021</i> (S. 228/H.R. 3843), which was approved with bipartisan support by the Senate Judiciary Committee in May 2021 and the House Judiciary Committee in June 2021. The bill raises Hart-Scott-Rodino (HSR) fees significantly for billion-dollar transactions, and it also reduces fees for smaller deals. Additionally, HSR filing fees would increase annually based on the Consumer Price Index. The legislation would also significantly increase the Fiscal Year (FY) 2022 budget allocations for the Federal Trade Commission and Antitrust Division	Contains identical provision. (Sec. 6202)

	America COMPETES Act	USICA
	of the Department of Justice, raising them to \$418 million and \$252 million, respectively. (Sec. 80201)	
Let Immigrants Kickstart Employment (LIKE) Act	Start-Up Entities; Nonimmigrant Entrepreneurs and Employees: Unlike <i>USICA</i> , the <i>COMPETES Act</i> contains the text of the <i>Let Immigrants Kickstart Employment (LIKE) Act (H.R. 4681)</i> , which would create a new three-year temporary visa for individuals who possess an ownership interest of at least 5 percent in a start-up entity. These entries must have received at least \$500,000 in qualifying investments or government awards or grants; created at least five qualified jobs; or generated at least \$500,000 in annual revenue and averaged 20 percent in annual revenue growth. The bill stipulates that after three years, if the founder retains an ownership interest in the entity and the entity has met certain growth-related benchmarks, the founder can receive additional extensions of up to five years of their temporary status. (Sec. 80302)	No such provisions.
Doctoral STEM Graduates	Unlike <i>USICA</i> , the <i>COMPETES Act</i> includes language amending the <i>Immigration and Nationality Act</i> to exempt from the numerical limitations on immigrant visas and aliens who: (1) meet the requirements for classification as an immigrant under the employment-based first preference category or employment-based second preference category; (2) have earned a doctoral degree in STEM from a qualified U.S. research institution or a foreign institution; and (3) are seeking admission to work in the U.S. in a field related to such a degree. (Sec. 80303)	No such provisions.

	America COMPETES Act	USICA
Other Entrepreneurship	No such provision.	Unlike the <i>COMPETES Act</i> , <i>USICA</i> also includes language directing the Commerce Department to work with partners at relevant agencies to conduct a study into the underlying factors driving the current “startup slump,” including with respect to demographic changes and increased industry concentration. (Sec. 6301)

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