

115TH CONGRESS
1ST SESSION

H. R. 2807

To amend title 10, United States Code, to require congressional notification concerning sensitive military cyber operations and cyber weapons, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 7, 2017

Mr. THORNBERRY (for himself, Mr. SMITH of Washington, Ms. STEFANIK, and Mr. LANGEVIN) introduced the following bill; which was referred to the Committee on Armed Services

A BILL

To amend title 10, United States Code, to require congressional notification concerning sensitive military cyber operations and cyber weapons, 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. NOTIFICATION REQUIREMENTS FOR SENSITIVE**
4 **MILITARY CYBER OPERATIONS AND CYBER**
5 **WEAPONS.**

6 (a) NOTIFICATION.—Chapter 3 of title 10, United
7 States Code, is amended by adding at the end the fol-
8 lowing new sections:

1 **“§ 130j. Notification requirements for sensitive mili-**
2 **tary cyber operations**

3 “(a) IN GENERAL.—Except as provided in subsection
4 (d), the Secretary of Defense shall promptly submit to the
5 congressional defense committees notice in writing of any
6 sensitive military cyber operation conducted under this
7 title no later than 48 hours following such operation.

8 “(b) PROCEDURES.—(1) The Secretary of Defense
9 shall establish and submit to the congressional defense
10 committees procedures for complying with the require-
11 ments of subsection (a) consistent with the national secu-
12 rity of the United States and the protection of operational
13 integrity. The Secretary shall promptly notify the congres-
14 sional defense committees in writing of any changes to
15 such procedures at least 14 days prior to the adoption of
16 any such changes.

17 “(2) The congressional defense committees shall en-
18 sure that committee procedures designed to protect from
19 unauthorized disclosure classified information relating to
20 national security of the United States are sufficient to pro-
21 tect the information that is submitted to the committees
22 pursuant to this section.

23 “(3) In the event of an unauthorized disclosure of a
24 sensitive military cyber operation covered by this section,
25 the Secretary shall ensure, to the maximum extent prac-
26 ticable, that the congressional defense committees are no-

1 tified immediately of the sensitive military cyber operation
2 concerned. The notification under this paragraph may be
3 verbal or written, but in the event of a verbal notification
4 a written notification shall be provided by not later than
5 48 hours after the provision of the verbal notification.

6 “(c) SENSITIVE MILITARY CYBER OPERATION DE-
7 FINED.—(1) In this section, the term ‘sensitive military
8 cyber operation’ means an action described in paragraph
9 (2) that—

10 “(A) is carried out by the armed forces or by
11 a foreign partner in coordination with the armed
12 forces; and

13 “(B) is intended to cause effects outside a geo-
14 graphic location where United States armed forces
15 are involved in hostilities (as that term is used in
16 section 1543 of title 50, United States Code).

17 “(2) The actions described in this paragraph are the
18 following:

19 “(A) An offensive cyber operation.

20 “(B) A defensive cyber operation outside the
21 Department of Defense Information Networks to de-
22 feat an ongoing or imminent threat.

23 “(d) EXCEPTIONS.—The notification requirement
24 under subsection (a) does not apply—

1 “(1) to a training exercise conducted with the
2 consent of all nations where the intended effects of
3 the exercise will occur; or

4 “(2) to a covert action (as that term is defined
5 in section 3093 of title 50, United States Code).

6 “(e) RULE OF CONSTRUCTION.—Nothing in this sec-
7 tion shall be construed to provide any new authority or
8 to alter or otherwise affect the War Powers Resolution (50
9 U.S.C. 1541 et seq.), the Authorization for Use of Military
10 Force (Public Law 107–40; 50 U.S.C. 1541 note), or any
11 requirement under the National Security Act of 1947 (50
12 U.S.C. 3001 et seq.).

13 **“§ 130k. Notification requirements for cyber weapons**

14 “(a) IN GENERAL.—Except as provided in subsection
15 (c), the Secretary of Defense shall promptly submit to the
16 congressional defense committees notice in writing of the
17 following:

18 “(1) With respect to a cyber capability that is
19 intended for use as a weapon, the results of any re-
20 view of the capability for legality under international
21 law pursuant to Department of Defense Directive
22 5000.01 no later than 48 hours after any military
23 department concerned has completed such review.

24 “(2) The use as a weapon of any cyber capa-
25 bility that has been approved for such use under

1 international law by a military department no later
2 than 48 hours following such use.

3 “(b) PROCEDURES.—(1) The Secretary of Defense
4 shall establish and submit to the congressional defense
5 committees procedures for complying with the require-
6 ments of subsection (a) consistent with the national secu-
7 rity of the United States and the protection of operational
8 integrity. The Secretary shall promptly notify the congres-
9 sional defense committees in writing of any changes to
10 such procedures at least 14 days prior to the adoption of
11 any such changes.

12 “(2) The congressional defense committees shall en-
13 sure that committee procedures designed to protect from
14 unauthorized disclosure classified information relating to
15 national security of the United States are sufficient to pro-
16 tect the information that is submitted to the committees
17 pursuant to this section.

18 “(3) In the event of an unauthorized disclosure of a
19 cyber capability covered by this section, the Secretary shall
20 ensure, to the maximum extent practicable, that the con-
21 gressional defense committees are notified immediately of
22 the cyber capability concerned. The notification under this
23 paragraph may be verbal or written, but in the event of
24 a verbal notification a written notification shall be pro-

1 vided by not later than 48 hours after the provision of
 2 the verbal notification.

3 “(c) EXCEPTIONS.—The notification requirement
 4 under subsection (a) does not apply—

5 “(1) to a training exercise conducted with the
 6 consent of all nations where the intended effects of
 7 the exercise will occur; or

8 “(2) to a covert action (as that term is defined
 9 in section 3093 of title 50, United States Code).

10 “(d) RULE OF CONSTRUCTION.—Nothing in this sec-
 11 tion shall be construed to provide any new authority or
 12 to alter or otherwise affect the War Powers Resolution (50
 13 U.S.C. 1541 et seq.), the Authorization for Use of Military
 14 Force (Public Law 107–40; 50 U.S.C. 1541 note), or any
 15 requirement under the National Security Act of 1947 (50
 16 U.S.C. 3001 et seq.).”.

17 (b) CLERICAL AMENDMENT.—The table of sections
 18 at the beginning of such chapter is amended by adding
 19 at the end the following new items:

“130j. Notification requirements for sensitive military cyber operations.
 “130k. Notification requirements for cyber weapons.”.

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