

116TH CONGRESS
1ST SESSION

S. 200

To prohibit the conduct of a first-use nuclear strike absent a declaration
of war by Congress.

IN THE SENATE OF THE UNITED STATES

JANUARY 24, 2019

Mr. MARKEY (for himself, Mr. MURPHY, Ms. WARREN, Mr. VAN HOLLEN,
Mrs. GILLIBRAND, Mr. MERKLEY, Mr. SCHATZ, Mr. LEAHY, Mr. BROWN,
Mr. SANDERS, Mr. WYDEN, and Ms. SMITH) introduced the following bill;
which was read twice and referred to the Committee on Foreign Relations

A BILL

To prohibit the conduct of a first-use nuclear strike absent
a declaration of war by Congress.

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 “Restricting First Use
5 of Nuclear Weapons Act of 2019”.

6 **SEC. 2. FINDINGS AND DECLARATION OF POLICY.**

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

8 (1) The Constitution gives Congress the sole
9 power to declare war.

1 (2) The framers of the Constitution understood
2 that the monumental decision to go to war, which
3 can result in massive death and the destruction of
4 civilized society, must be made by the representa-
5 tives of the people and not by a single person.

6 (3) As stated by section 2(c) of the War Powers
7 Resolution (Public Law 93–148; 50 U.S.C. 1541),
8 “the constitutional powers of the President as Com-
9 mander-in-Chief to introduce United States Armed
10 Forces into hostilities, or into situations where im-
11 minent involvement in hostilities is clearly indicated
12 by the circumstances, are exercised only pursuant to
13 (1) a declaration of war, (2) specific statutory au-
14 thorization, or (3) a national emergency created by
15 attack upon the United States, its territories or pos-
16 sessions, or its armed forces”.

17 (4) Nuclear weapons are uniquely powerful
18 weapons that have the capability to instantly kill
19 millions of people, create long-term health and envi-
20 ronmental consequences throughout the world, di-
21 rectly undermine global peace, and put the United
22 States at existential risk from retaliatory nuclear
23 strikes.

1 (5) By any definition of war, a first-use nuclear
 2 strike from the United States would constitute a
 3 major act of war.

4 (6) A first-use nuclear strike conducted absent
 5 a declaration of war by Congress would violate the
 6 Constitution.

7 (b) DECLARATION OF POLICY.—It is the policy of the
 8 United States that no first-use nuclear strike should be
 9 conducted absent a declaration of war by Congress.

10 **SEC. 3. PROHIBITION ON CONDUCT OF FIRST-USE NU-**
 11 **CLEAR STRIKES.**

12 (a) PROHIBITION.—Notwithstanding any other provi-
 13 sion of law, the President may not use the Armed Forces
 14 of the United States to conduct a first-use nuclear strike
 15 unless such strike is conducted pursuant to a declaration
 16 of war by Congress that expressly authorizes such strike.

17 (b) FIRST-USE NUCLEAR STRIKE DEFINED.—In this
 18 section, the term “first-use nuclear strike” means an at-
 19 tack using nuclear weapons against an enemy that is con-
 20 ducted without the President determining that the enemy
 21 has first launched a nuclear strike against the United
 22 States or an ally of the United States.

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