

116TH CONGRESS
2D SESSION

S. 4793

To authorize the imposition of sanctions with respect to certain activities that threaten the national security, foreign policy, public health, economic health, or financial stability of the United States, and for other purposes.

IN THE SENATE OF THE UNITED STATES

OCTOBER 1, 2020

Mr. TILLIS (for himself and Mrs. BLACKBURN) introduced the following bill;
which was read twice and referred to the Committee on Foreign Relations

A BILL

To authorize the imposition of sanctions with respect to certain activities that threaten the national security, foreign policy, public health, economic health, or financial stability of the United States, 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 “Defend COVID Re-
5 search from Hackers Act”.

1 **SEC. 2. AUTHORIZATION OF IMPOSITION OF SANCTIONS**
2 **WITH RESPECT TO CERTAIN ACTIVITIES**
3 **THAT THREATEN THE NATIONAL SECURITY,**
4 **FOREIGN POLICY, PUBLIC HEALTH, ECO-**
5 **NOMIC HEALTH, OR FINANCIAL STABILITY OF**
6 **THE UNITED STATES.**

7 (a) IN GENERAL.—The President may impose sanc-
8 tions described in subsection (b) with respect to any for-
9 eign person determined by the President—

10 (1) to have engaged in, directly or indirectly, or
11 to be responsible for or complicit in, activities, in-
12 cluding cyber-enabled activities, that—

13 (A)(i) are reasonably likely to result in a
14 significant threat to the national security, for-
15 eign policy, public health, economic health, or
16 financial stability of the United States; or

17 (ii) originate from or are directed by for-
18 eign persons that have materially contributed to
19 such a threat; and

20 (B) that have the purpose or effect of—

21 (i) harming, or otherwise significantly
22 compromising, the provision of services by
23 a computer or network of computers that
24 support one or more entities in a critical
25 infrastructure sector;

1 (ii) significantly compromising the
2 provision of services by one or more enti-
3 ties in a critical infrastructure sector;

4 (iii) causing a significant disruption to
5 the availability of a computer or network
6 of computers; or

7 (iv) causing a significant misappro-
8 priation of funds or other economic re-
9 sources, trade secrets, personal identifiers,
10 intellectual property, or financial informa-
11 tion for commercial or competitive advan-
12 tage or private financial gain;

13 (2) to have engaged in, to be responsible for or
14 complicit in, or to have knowingly and materially
15 benefitted from, the receipt or use for commercial or
16 competitive advantage or private financial gain of
17 funds or other economic resources, trade secrets,
18 personal identifiers, intellectual property, or finan-
19 cial information misappropriated through cyber-en-
20 abled activities, if such misappropriation is reason-
21 ably likely to result in, or to have materially contrib-
22 uted to, a significant threat described in paragraph
23 (1)(A)(i);

24 (3) to have materially assisted, sponsored, or
25 provided financial, material, or technological support

1 for, or goods or services in support of any activity
2 or person described in paragraph (1) or (2);

3 (4) to be owned or controlled by, to be an offi-
4 cer or director of, or to have otherwise acted or pur-
5 ported to act for or on behalf of, directly or indi-
6 rectly, any person described in paragraph (1) or (2);
7 or

8 (5) to have attempted to engage in any activity
9 described in paragraph (1), (2), or (3).

10 (b) SANCTIONS DESCRIBED.—The sanctions de-
11 scribed in this subsection are the following:

12 (1) BLOCKING OF PROPERTY.—The President
13 shall exercise all of the powers granted to the Presi-
14 dent by the International Emergency Economic
15 Powers Act (50 U.S.C. 1701 et seq.) (except that
16 the requirements of section 202 of such Act (50
17 U.S.C. 1701) shall not apply) to the extent nec-
18 essary to block and prohibit all transactions in prop-
19 erty and interests in property of a foreign person de-
20 scribed in subsection (a) if such property and inter-
21 ests in property are in the United States, come with-
22 in the United States, or are or come within the pos-
23 session or control of a United States person.

24 (2) INADMISSIBILITY OF CERTAIN INDIVID-
25 UALS.—

1 (A) INELIGIBILITY FOR VISAS, ADMISSION,
2 OR PAROLE.—An alien described in subsection
3 (a) is—

4 (i) inadmissible to the United States;
5 (ii) ineligible to receive a visa or other
6 documentation to enter the United States;
7 and

8 (iii) otherwise ineligible to be admitted
9 or paroled into the United States or to re-
10 ceive any other benefit under the Immigra-
11 tion and Nationality Act (8 U.S.C. 1101 et
12 seq.).

13 (B) CURRENT VISAS REVOKED.—

14 (i) IN GENERAL.—The visa or other
15 entry documentation of an alien described
16 in subsection (a) shall be revoked, regard-
17 less of when such visa or other entry docu-
18 mentation is or was issued.

19 (ii) IMMEDIATE EFFECT.—A revoca-
20 tion under clause (i) shall—

21 (I) take effect immediately; and

22 (II) automatically cancel any
23 other valid visa or entry documenta-
24 tion that is in the alien's possession.

25 (c) IMPLEMENTATION; PENALTIES.—

1 (1) IMPLEMENTATION.—The President may ex-
2 ercise all authorities provided under sections 203
3 and 205 of the International Emergency Economic
4 Powers Act (50 U.S.C. 1702 and 1704) to the ex-
5 tent necessary to carry out this section.

6 (2) PENALTIES.—A person that violates, at-
7 tempts to violate, conspires to violate, or causes a
8 violation of subsection (b)(1), or any regulation, li-
9 cense, or order issued to carry out that subsection,
10 shall be subject to the penalties set forth in sub-
11 sections (b) and (c) of section 206 of the Inter-
12 national Emergency Economic Powers Act (50
13 U.S.C. 1705) to the same extent as a person that
14 commits an unlawful act described in subsection (a)
15 of that section.

16 (d) EXCEPTIONS.—

17 (1) INTELLIGENCE AND LAW ENFORCEMENT
18 ACTIVITIES.—The following activities shall be ex-
19 empt from sanctions under this section:

20 (A) Activities subject to the reporting re-
21 quirements under title V of the National Secu-
22 rity Act of 1947 (50 U.S.C. 3091 et seq.).

23 (B) Activities subject to any authorized in-
24 telligence or law enforcement activities of the
25 United States.

1 (2) EXCEPTION RELATING TO IMPORTATION OF
2 GOODS.—

3 (A) IN GENERAL.—The authorities and re-
4 quirements to impose sanctions under sub-
5 section (b)(1) shall not include the authority or
6 a requirement to impose sanctions on the im-
7 portation of goods.

8 (B) GOOD DEFINED.—In this paragraph,
9 the term “good” means any article, natural or
10 manmade substance, material, supply or manu-
11 factured product, including inspection and test
12 equipment, and excluding technical data.

13 (3) EXCEPTION TO COMPLY WITH INTER-
14 NATIONAL OBLIGATIONS.—Sanctions under sub-
15 section (b)(2) shall not apply with respect to an
16 alien if admitting or paroling the alien into the
17 United States is necessary to permit the United
18 States to comply with the Agreement regarding the
19 Headquarters of the United Nations, signed at Lake
20 Success June 26, 1947, and entered into force No-
21 vember 21, 1947, between the United Nations and
22 the United States, or other applicable international
23 obligations of the United States.

24 (e) REPORT ON CYBER-ENABLED ACTIVITIES.—

1 (1) IN GENERAL.—Not later than 180 days
2 after the date of the enactment of this Act, the Sec-
3 retary of State, in consultation with the Director of
4 National Intelligence, shall submit to the appro-
5 priate congressional committees a report—

6 (A) detailing the extent of known cyber-en-
7 abled activities or attempted cyber-enabled ac-
8 tivities described in subsection (a) by foreign
9 persons related to the coronavirus disease 2019
10 (commonly referred to as “COVID-19”) pan-
11 demic; and

12 (B) assessing whether such activities qual-
13 ify for the imposition of sanctions under this
14 section.

15 (2) FORM.—The report required by paragraph
16 (1) shall be submitted in unclassified form but may
17 include a classified annex.

18 (f) DEFINITIONS.—In this section:

19 (1) ADMITTED; ALIEN.—The terms “admitted”
20 and “alien” have the meanings given such terms in
21 section 101 of the Immigration and Nationality Act
22 (8 U.S.C. 1101).

23 (2) APPROPRIATE CONGRESSIONAL COMMIT-
24 TEES.—The term “appropriate congressional com-
25 mittees” means—

1 (A) the Committee on Foreign Relations
2 and the Committee on Banking, Housing, and
3 Urban Affairs of the Senate; and

4 (B) the Committee on Foreign Affairs and
5 the Committee on Financial Services of the
6 House of Representatives.

7 (3) CRITICAL INFRASTRUCTURE SECTOR.—The
8 term “critical infrastructure sector” means any of
9 the designated critical infrastructure sectors identi-
10 fied in Presidential Policy Directive 21.

11 (4) ENTITY.—The term “entity” means a part-
12 nership, association, trust, joint venture, corpora-
13 tion, group, subgroup, or other organization.

14 (5) FOREIGN PERSON.—The term “foreign per-
15 son” means an individual or entity that is not a
16 United States person.

17 (6) KNOWINGLY.—The term “knowingly”, with
18 respect to conduct, a circumstance, or a result,
19 means that a person has actual knowledge, or should
20 have known, of the conduct, the circumstance, or the
21 result.

22 (7) MISAPPROPRIATION.—The term “misappro-
23 priation” means any taking or obtaining by im-
24 proper means, without permission or consent, or
25 under false pretenses.

1 (8) PERSON.—The term “person” means an in-
2 dividual or entity.

3 (9) UNITED STATES PERSON.—The term
4 “United States person” means—

5 (A) an individual who is a United States
6 citizen or an alien lawfully admitted for perma-
7 nent residence to the United States;

8 (B) an entity organized under the laws of
9 the United States or any jurisdiction within the
10 United States, including a foreign branch of
11 such an entity; or

12 (C) any person in the United States.

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