

COMMERCIAL REMOTE SENSING ACT OF 2015

SEPTEMBER 28, 2016.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. SMITH of Texas, from the Committee on Science, Space, and Technology, submitted the following

R E P O R T

[To accompany H.R. 2261]

[Including cost estimate of the Congressional Budget Office]

The Committee on Science, Space, and Technology, to whom was referred the bill (H.R. 2261) to facilitate the continued development of the commercial remote sensing industry and protect national security, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Commercial Remote Sensing Act of 2015”.

SEC. 2. ANNUAL REPORTING.

(a) IN GENERAL.—Subchapter III of chapter 601 of title 51, United States Code, is amended by adding at the end the following:

“§ 60126. Annual reporting

“The Secretary shall provide a report to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate not later than 180 days after the date of enactment of the Commercial Remote Sensing Act of 2015 and annually thereafter on—

- “(1) the Secretary’s implementation of section 60121, including—
 - “(A) a list of all applications received in the previous calendar year;
 - “(B) a list of all applications approved;
 - “(C) a list of all applications denied;
 - “(D) a list of all applications that required additional information; and
 - “(E) a list of all applications whose disposition exceeded the 120 day deadline established in section 60121(c), the total days overdue for applications that exceeded such deadline, and an explanation for the delay;
- “(2) all notifications and information provided to the Secretary pursuant to section 60122; and
- “(3) all actions taken by the Secretary under the administrative authority granted by section 60123(a)(4), (5), and (6).”

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 601 of such title is amended by inserting after the item relating to section 60125 the following new item:

“60126. Annual reporting.”.

SEC. 3. STATUTORY UPDATE REPORT.

Not later than 1 year after the date of enactment of this Act, the Secretary, in consultation with other appropriate Federal agencies and the National Oceanic and Atmospheric Administration’s Advisory Committee on Commercial Remote Sensing, shall report to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on statutory updates necessary to protect national security, protect privacy (which is not to be taken as altering any condition or standards for licensing), protect the United States industrial base, and reflect the current state of the art of remote sensing systems, instruments, or technologies.

COMMITTEE STATEMENT AND VIEWS

PURPOSE AND SUMMARY

The purpose of H.R. 2261, the “Commercial Remote Sensing Act of 2015,” is to facilitate the increasing growth of the private space-based remote sensing industry while protecting national security and maintaining the United States’ status as a leader in the development and operation of remote sensing technologies.

BACKGROUND AND NEED FOR LEGISLATION

The U.S. private space-based remote sensing industry is experiencing unprecedented growth. Technological developments are allowing for greater sensing capabilities, on smaller platforms, with less cost. New innovative business models use space-based data as part of the larger data fusion products and services industry. The Federal regulatory agency responsible for authorizing and supervising these activities has experienced significant growth in the number of license applicants and regulatory actions. From 1996 to 2010, NOAA’s Office of Commercial Remote Sensing and Regulatory Affairs processed 26 licenses. From 2010 through 2015, 45 licenses have been processed, with 35 licenses processed since 2013 and nine additional licenses being processed at the time of this report. In addition, regulatory compliance oversight requires annual inspections to licensee ground stations and other facilities and the

number of annual inspections performed has been increasing as the number of licensees has increased.

The last time Congress updated the legislation governing these regulatory responsibilities was in 1998. The Committee has been involved with this process going back to 1992 when Congress passed the Land Remote Sensing Act which created this structure. There is a need to address new and emerging issues by strengthening Congressional oversight and reinforcing that the federal government should meet this increasing demand while protecting national security and maintaining the United States' status as a leader in the development and operation of remote sensing technologies.

LEGISLATIVE HISTORY

During the 113th and 114th Congresses, the House Committee on Science, Space, and Technology held 14 hearings and five mark-ups relevant to commercial space initiatives. Three of those Committee proceedings were relevant to this legislation.

On November 20, 2013, the Subcommittee on Space held a hearing titled "Commercial Space." The hearing examined ways in which companies are utilizing federal support and government policies to grow their commercial businesses in space launch, communications, GPS, remote sensing, weather monitoring, suborbital tourism and science experimentation, and human spaceflight. The witnesses addressed what government policies would be helpful to the U.S. commercial space industry. The first witness panel consisted of the Honorable Kevin McCarthy, Majority Whip of the U.S. House of Representatives. The second panel consisted of: Ms. Patricia Cooper, President of the Satellite Industry Association; Mr. Stuart Witt, CEO and General Manager of the Mojave Air and Space Port; and Dennis Tito, Chairman of the Inspiration Mars Foundation.

On December 11, 2013, the Committee on Science, Space, and Technology met to consider H.R. 2413, the Weather Forecasting Improvement Act of 2013. This measure contained provisions regarding public safety and commercial satellites.

On February 12, 2015 the Environment and Oversight Subcommittees held a joint hearing titled "Bridging the Gap: America's Weather Satellites and Weather Forecasting." The purpose of the hearing was to provide an update of the operations and development of National Oceanic and Atmospheric Administration's polar-orbiting and geostationary weather satellite programs and discuss recent Government Accountability Office reports on the two programs. In addition, the hearing discussed the use of satellite data in operational and research weather models and prediction methods. The Subcommittees received testimony from Mr. David Powner, Director, Information Technology Management Issues, Government Accountability Office; Dr. Stephen Volz, Assistant Administrator, National Environmental Satellite, Data, and Information Services, National Oceanic and Atmospheric Administration; and Mr. Steven Clarke, Director, Joint Agency Satellite Division, National Aeronautics and Space Administration. The Subcommittees were also joined for questioning by Dr. Alexander MacDonald, President, American Meteorological Society; Director, Earth System Research Laboratory, National Oceanic and Atmospheric Adminis-

tration; and Chief Science Advisor, Office of Oceanic and Atmospheric Research, National Oceanic and Atmospheric Administration; and Mr. John Murphy, Director, Office of Science and Technology, National Weather Service, National Oceanic and Atmospheric Administration.

SECTION-BY-SECTION

Sec. 1. Short title

Titles the Act the “Commercial Remote Sensing Act of 2015.”

Sec. 2. Annual reporting

This section adds to Title 51 of U.S. Code by directing the Secretary of Commerce to provide a report to Congress on the Secretary’s implementation of section 60121 of Title 51, U.S. Code, which authorizes the Secretary to license private sector parties to operate private remote sensing systems.

This report will provide Congress with the information it needs to ensure the agency is utilizing its existing authorities appropriately and whether it needs to update its policies and procedures to reflect the ever-changing technological landscape.

Meeting statutory deadlines

Pursuant to 51 U.S.C. 60121(c), “the Secretary shall review any application and make a determination thereon within 120 days of the receipt of such application. If final action has not occurred within such time, the Secretary shall inform the application of any pending issues and of actions required to resolve them.” The Committee is concerned that the Secretary of Commerce’s ability to meet this statutory deadline for adjudicating license applications, particularly given increasing licensing and oversight demands. This report requires the Secretary to inform Congress of all license applications whose disposition exceeded the 120 day deadline established in 60121(c).”

Sec. 3. Statutory update report

This section directs the Secretary, in consultation with other appropriate Federal agencies and the National Oceanic and Atmospheric Administration’s Advisory Committee on Commercial Remote Sensing, to report to Congress on statutory updates necessary to protect national security, protect privacy (which is not to be taken as altering any condition or standard for licensing), protect the U.S. industrial base, and reflect the current state of the art of remote sensing systems, instruments, or technologies.

Protection of privacy

It is not the intent of the Committee for this reporting requirement to add any additional regulatory authority to the Secretary. Specifically, this reporting requirement shall not be interpreted as imbuing upon the Secretary the authority to take into account protection of privacy in the regulation of private sector space-based remote sensing activities.

EXPLANATION OF AMENDMENTS

During the Science, Space, and Technology Committee's markup of this legislation, one amendment to the bill was considered and approved by voice vote. The amendment, offered by Representative Alan Grayson, adds to the information to be included in the report on necessary statutory updates.

COMMITTEE CONSIDERATION

On May 13, 2015, the Committee met in open session and ordered reported favorably the bill, H.R. 2261, as amended, by voice vote, a quorum being present.

APPLICATION OF LAW TO THE LEGISLATIVE BRANCH

Section 102(b)(3) of Public Law 104–1 requires a description of the application of this bill to the legislative branch where the bill relates to the terms and conditions of employment or access to public services and accommodations. This bill facilitates the continued development of the commercial remote sensing industry. As such this bill does not relate to employment or access to public services and accommodations.

STATEMENT OF OVERSIGHT FINDINGS AND RECOMMENDATIONS OF
THE COMMITTEE

In compliance with clause 3(c)(1) of rule XIII and clause (2)(b)(1) of rule X of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in the descriptive portions of this report.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

H.R. 2261, the Commercial Remote Sensing Act of 2015, would facilitate the continued development of the commercial remote sensing industry.

DUPLICATION OF FEDERAL PROGRAMS

No provision of H.R. 2261 establishes or reauthorizes a program of the Federal Government known to be duplicative of another Federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

DISCLOSURE OF DIRECTED RULE MAKINGS

The Committee estimates that enacting H.R. 2261 does not direct the completion of any specific rule makings within the meaning of 5 U.S.C. 551.

FEDERAL ADVISORY COMMITTEE ACT

The Committee finds that the legislation does not establish or authorize the establishment of an advisory committee within the definition of 5 U.S.C. App., Section 5(b).

UNFUNDED MANDATE STATEMENT

Section 423 of the Congressional Budget and Impoundment Control Act (as amended by Section 101(a)(2) of the Unfunded Mandate Reform Act, P.L. 104-4) requires a statement as to whether the provisions of the reported include unfunded mandates. In compliance with this requirement the Committee has received a letter from the Congressional Budget Office included herein.

EARMARK IDENTIFICATION

H.R. 2261 does not include any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI.

COMMITTEE ESTIMATE

Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs that would be incurred in carrying out H.R. 2261. However, clause 3(d)(3)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act.

BUDGET AUTHORITY AND CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

With respect to the requirements of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974 and with respect to requirements of clause (3)(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for H.R. 2261 from the Director of Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, May 19, 2015.

Hon. LAMAR SMITH,
*Chairman, Committee on Science, Space, and Technology,
U.S. House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2261, the Commercial Remote Sensing Act of 2015.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Kathleen Gramp.

Sincerely,

KEITH HALL.

Enclosure.

H.R. 2261—Commercial Remote Sensing Act of 2015

Summary: H.R. 2261 would direct the Secretary of Commerce to submit annual reports on the status of private-sector applications for remote sensing technologies. The Secretary also would be required to submit a report to Congressional committees on any stat-

tory changes that may be necessary to protect and promote national interests in such systems.

Assuming the availability of appropriated funds, CBO estimates that implementing H.R. 2261 would cost \$3 million over the 2016–2020 period. Pay-as-you-go procedures do not apply to this legislation because it would not affect direct spending or revenues.

H.R. 2261 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would not affect the budgets of state, local, or tribal governments.

Estimated cost to the Federal Government: The estimated budgetary effect of H.R. 2261 is shown in the following table. The costs of this legislation fall within budget function 300 (natural resources and the environment).

	By fiscal year, in millions of dollars—					
	2016	2017	2018	2019	2020	2016–2020
CHANGES IN SPENDING SUBJECT TO APPROPRIATION						
Estimated Authorization Level	2	*	*	*	*	3
Estimated Outlays	1	1	*	*	*	3

Note: * = Less than \$500,000.

Basis of estimate: For this estimate, CBO assumes that H.R. 2261 will be enacted near the end of fiscal year 2015, that the necessary amounts will be appropriated at or near the beginning of each year, and that funds will be spent at historical rates for such activities.

Based on information from the Department of Commerce, CBO estimates that completing the bill’s required study on a statutory framework for commercial remote sensing operations would cost \$1.8 million because of the technical and legal complexity of these systems. Developing data and annual reports on the disposition of commercial licenses for remote sensing would cost \$250,000 a year, CBO estimates.

Pay-As-You-Go considerations: None.

Intergovernmental and private-sector impact: H.R. 2261 contains no intergovernmental or private-sector mandates as defined in UMRA and would not affect the budgets of state, local, or tribal governments.

Estimate prepared by: Federal costs: Kathleen Gramp; impact on state, local, and tribal governments: Jon Sperl; impact on the private sector: Amy Petz.

Estimate approved by: Theresa Gullo, Assistant Director for Budget Analysis.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italic and existing law in which no change is proposed is shown in roman):

TITLE 51, UNITED STATES CODE

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SUBTITLE VI—EARTH OBSERVATIONS

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CHAPTER 601—LAND REMOTE SENSING POLICY

SUBCHAPTER I—GENERAL

Sec.

60101. Definitions.

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SUBCHAPTER III—LICENSING OF PRIVATE REMOTE SENSING SPACE SYSTEMS

60121. General licensing authority.

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60126. Annual reporting.

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SUBCHAPTER III—LICENSING OF PRIVATE REMOTE SENSING SPACE SYSTEMS

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§ 60126. Annual reporting

The Secretary shall provide a report to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate not later than 180 days after the date of enactment of the Commercial Remote Sensing Act of 2015 and annually thereafter on—

(1) the Secretary’s implementation of section 60121, including—

(A) a list of all applications received in the previous calendar year;

(B) a list of all applications approved;

(C) a list of all applications denied;

(D) a list of all applications that required additional information; and

(E) a list of all applications whose disposition exceeded the 120 day deadline established in section 60121(c), the total days overdue for applications that exceeded such deadline, and an explanation for the delay;

(2) all notifications and information provided to the Secretary pursuant to section 60122; and

(3) all actions taken by the Secretary under the administrative authority granted by section 60123(a)(4), (5), and (6).

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