

116TH CONGRESS
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H. R. 7708

To authorize the imposition of sanctions on certain foreign persons that have threatened the national security, foreign policy, public health, or economic health or financial stability of the United States, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 21, 2020

Mr. MCCARTHY introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on Foreign Affairs, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To authorize the imposition of sanctions on certain foreign persons that have threatened the national security, foreign policy, public health, or 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 ON**
2 **CERTAIN FOREIGN PERSONS.**

3 (a) IN GENERAL.—The President is authorized to
4 impose sanctions described in subsection (b) with respect
5 to any foreign person determined by the President—

6 (1) to be responsible for or complicit in, or to
7 have engaged in, directly or indirectly, activities, in-
8 cluding cyber-enabled activities, originating from, or
9 directed by foreign persons that are reasonably likely
10 to result in, or have materially contributed to, a sig-
11 nificant threat to the national security, foreign pol-
12 icy, public health, or economic health or financial
13 stability of the United States and that have the pur-
14 pose or effect of—

15 (A) harming, or otherwise significantly
16 compromising the provision of services by a
17 computer or network of computers that support
18 one or more entities in a critical infrastructure
19 sector;

20 (B) significantly compromising the provi-
21 sion of services by one or more entities in a
22 critical infrastructure sector;

23 (C) causing a significant disruption to the
24 availability of a computer or network of com-
25 puters; or

1 (D) causing a significant misappropriation
2 of funds or economic resources, trade secrets,
3 personal identifiers, intellectual property, or fi-
4 nancial information for commercial or competi-
5 tive advantage or private financial gain;

6 (2) to be responsible for or complicit in, or to
7 have engaged in, or to have knowingly materially
8 benefitted from, the receipt or use for commercial or
9 competitive advantage or private financial gain, of
10 funds or economic resources, trade secrets, personal
11 identifiers, intellectual property, or financial infor-
12 mation misappropriated through cyber-enabled ac-
13 tivities and with respect to which such actions are
14 reasonably likely to result in, or have materially con-
15 tributed to, a significant threat to the national secu-
16 rity, foreign policy, public health, or economic health
17 or financial stability of the United States;

18 (3) to have materially assisted, sponsored, or
19 provided financial, material, or technological support
20 for, or goods or services in support of—

21 (A) any activity described in paragraphs

22 (1) and (2); or

23 (B) any person whose property or interests
24 in property are blocked pursuant to this section;

1 (4) to be owned or controlled by, or to have
2 acted or purported to act for or on behalf of, directly
3 or indirectly, any person whose property or interests
4 in property are blocked pursuant to this section; or
5 (5) to have attempted to engage in any of the
6 activities described in paragraphs (1) through (3).

7 (b) SANCTIONS DESCRIBED.—The sanctions to be
8 imposed with respect to a foreign person described in sub-
9 section (a) are the following:

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

22 (2) INADMISSIBILITY OF CERTAIN INDIVID-
23 UALS.—

24 (A) INELIGIBILITY FOR VISAS, ADMISSION,
25 OR PAROLE.—An alien who is a foreign person

1 under subsection (a), or an alien who is an offi-
2 cer or director of a foreign person under such
3 subsection, 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.—An alien
14 who is a foreign person under subsection (a), or
15 an alien who is an officer or director of a for-
16 eign person under such subsection, is subject to
17 the following:

18 (i) Revocation of any visa or other
19 entry documentation regardless of when
20 the visa or other entry documentation is or
21 was issued.

22 (ii) A revocation under clause (i)
23 shall—

24 (I) take effect immediately; and

1 (II) cancel any other valid visa or
2 entry documentation that is in the
3 foreign person's or alien's possession,
4 as the case may be.

5 (c) PENALTIES.—The penalties provided for in sub-
6 sections (b) and (c) of section 206 of the International
7 Emergency Economic Powers Act (50 U.S.C. 1705) shall
8 apply to a person that violates, attempts to violate, con-
9 spires to violate, or causes a violation of this section, in-
10 cluding regulations promulgated in accordance therewith,
11 to the same extent that such penalties apply to a person
12 that commits an unlawful act described in section 206(a)
13 of such Act.

14 (d) EXCEPTION.—Sanctions imposed pursuant to
15 this section shall not apply to an alien if admitting or pa-
16 roling the alien into the United States is necessary to per-
17 mit the United States to comply with the Agreement re-
18 garding the Headquarters of the United Nations, signed
19 at Lake Success June 26, 1947, and entered into force
20 November 21, 1947, between the United Nations and the
21 United States, or other applicable international obligations
22 of the United States.

23 (e) EXCEPTION TO COMPLY WITH NATIONAL SECUR-
24 ITY.—The following activities shall be exempt from sanc-
25 tions under this section:

1 (1) Activities subject to the reporting require-
2 ments under title V of the National Security Act of
3 1947 (50 U.S.C. 3091 et seq.).

4 (2) Activities subject to any authorized intel-
5 ligence or law enforcement activities of the United
6 States.

7 (f) IMPLEMENTATION AND REGULATORY AUTHOR-
8 ITY.—The President is authorized to exercise all authori-
9 ties provided to the President under sections 203 and 205
10 of the International Emergency Economic Powers Act (50
11 U.S.C. 1702 and 1704) to carry out this Act and may
12 issue such regulations, licenses, and orders as are nec-
13 essary to carry out this Act.

14 (g) EXCEPTION RELATED TO THE IMPORTATION OF
15 GOODS.—

16 (1) IN GENERAL.—The authorities and require-
17 ments to impose sanctions pursuant to this section
18 shall not include the authority or requirement to im-
19 pose sanctions on the importation of goods.

20 (2) GOOD DEFINED.—In this section, the term
21 “good” means any article, natural or man-made sub-
22 stance, material, supply or manufactured product,
23 including inspection and test equipment and exclud-
24 ing technical data.

25 (h) 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 detailing
6 the extent of known cyber-enabled activities or at-
7 tempted cyber-enabled activities as described in this
8 section by foreign persons related to the 2019 novel
9 coronavirus and whether such activities qualify for
10 the imposition of sanctions pursuant to this section.

11 (2) FORM.—The report required under sub-
12 section (a) shall be unclassified but may contain a
13 classified annex.

14 (i) DEFINITIONS.—In this section:

15 (1) ADMITTED; ALIEN.—The terms “admitted”
16 and “alien” have the meanings given such terms in
17 section 101 of the Immigration and Nationality Act
18 (8 U.S.C. 1101).

19 (2) APPROPRIATE CONGRESSIONAL COMMIT-
20 TEES.—The term “appropriate congressional com-
21 mittees” means—

22 (A) in the House of Representatives—

23 (i) the Committee on Foreign Affairs;

24 and

1 (ii) the Committee on Ways and
2 Means; and

3 (B) in the Senate—

4 (i) the Committee on Foreign Rela-
5 tions; and

6 (ii) the Committee on Banking, Hous-
7 ing, and Urban Affairs.

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

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

15 (5) FOREIGN GOVERNMENT.—The term “for-
16 eign government” means any government of a coun-
17 try other than the United States.

18 (6) FOREIGN PERSON.—The term “foreign per-
19 son” means an individual or entity that is not a
20 United States person.

21 (7) KNOWINGLY.—The term “knowingly” with
22 respect to conduct, a circumstance, or a result,
23 means that a person has actual knowledge, or should
24 have known, of the conduct, the circumstance, or the
25 result.

1 (8) MISAPPROPRIATION.—The term “misappropriation” means any taking or obtaining by improper means, without permission or consent, or
2 under false pretenses.
3

4 (9) PERSON.—The term “person” means an individual or entity.
5

6 (10) UNITED STATES PERSON.—The term
7 “United States person” means any United States
8 citizen, permanent resident alien, entity organized
9 under the laws of the United States or any jurisdiction
10 within the United States (including foreign
11 branches), or any person in the United States.
12

13 **SEC. 3. STOPPING TRAFFICKING IN BOTNETS.**

14 Section 1030 of title 18, United States Code, is
15 amended—

16 (1) in subsection (a)—

17 (A) in paragraph (7), by adding “or” at
18 the end; and

19 (B) by adding at the end the following new
20 paragraph:

21 “(8) knowingly traffics in access to a protected
22 computer, if the trafficker knows the protected com-
23 puter has been damaged in a manner prohibited by
24 this section.”;

25 (2) in subsection (c)(3)—

1 (A) in subparagraph (A), by striking
2 “(a)(4) or (a)(7)” and inserting “(a)(4), (a)(7),
3 or (a)(8)”; and

4 (B) in subparagraph (B), by striking
5 “(a)(4), or (a)(7)” and inserting “(a)(4),
6 (a)(7), or (a)(8)”;
7 (3) in subsection (e)—

8 (A) in paragraph (11), by striking “and”
9 at the end;

10 (B) in paragraph (12), by striking the pe-
11 riod at the end and inserting “; and”; and

12 (C) by adding at the end the following new
13 paragraph:

14 “(13) the term ‘traffic’ has the meaning given
15 such term in section 1029(e)(5) of this title.”; and

16 (4) in subsection (g), by inserting “, except for
17 a violation of subsection (a)(8),” after “violation of
18 this section”.

19 **SEC. 4. INJUNCTIONS AGAINST FRAUD AND ABUSE.**

20 Section 1345 of title 18, United States Code, is
21 amended—

22 (1) in the section heading by striking “**FRAUD**”
23 and inserting “**FRAUD AND ABUSE**”;

24 (2) in subsection (a)—

25 (A) in paragraph (1)—

1 (i) subparagraph (B), by striking “;
2 or” and inserting a semicolon;

3 (ii) in subparagraph (C), by striking
4 the semicolon and inserting “; or”; and

5 (iii) by adding at the end the fol-
6 lowing new subparagraph:

7 “(D) violating or about to violate section
8 1030(a)(5) of this title where such conduct has
9 caused or would cause damage (as defined in
10 section 1030) without authorization to 100 or
11 more protected computers (as defined in section
12 1030) during any 1-year period, including by—

13 “(i) damage of the protected com-
14 puters without authorization; or

15 “(ii) installing or maintaining control
16 over malicious software on the protected
17 computers that, without authorization,
18 have caused or would cause damage to the
19 protected computers;” and

20 (B) in paragraph (2) by inserting “, a vio-
21 lation under subsection (a)(1)(D),” after “(as
22 defined in section 3322(d) of this title)” and

23 (3) by adding at the end the following new sub-
24 section:

1 “(c)(1) No cause of action may lie or be maintained
2 in any court against any person and shall be promptly dis-
3 missed if such cause of action is with respect to an act
4 that is in compliance with any restraining order, prohibi-
5 tion, or other action under subsection (b), if issued in cir-
6 cumstances described in subsection (a)(1)(D).

7 “(2) A restraining order, prohibition, or other action
8 under subsection (b), if issued in circumstances described
9 in subsection (a)(1)(D), may, upon application of the At-
10 torney General, provide that the United States shall pay
11 to such person a fee for reimbursement for such costs as
12 are reasonably necessary and which have been directly in-
13 curred in complying with the restraining order, prohibi-
14 tion, or other action.”.

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