

113TH CONGRESS  
1ST SESSION

# H. R. 1640

To amend titles 10 and 32, United States Code, to enhance capabilities to prepare for and respond to cyber emergencies, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 18, 2013

Mr. ISRAEL (for himself, Mr. HANNA, Ms. SCHWARTZ, Mr. ENYART, and Mr. PALAZZO) introduced the following bill; which was referred to the Committee on Armed Services

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## A BILL

To amend titles 10 and 32, United States Code, to enhance capabilities to prepare for and respond to cyber emergencies, 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 “Cyber Warrior Act of  
5 2013”.

6 **SEC. 2. FINDINGS.**

7 Congress makes the following findings:

8 (1) The report of the Department of Defense  
9 Science Board Task Force on Resilient Military Sys-

1       tems and the Advanced Cyber Threat finds that  
2       “[i]t is not clear that high-end cyber practitioners  
3       can be found in sufficient numbers within typical  
4       recruitments pools”.

5           (2) The report recommends that “[t]he Depart-  
6       ment must scale up its efforts to recruit, provided  
7       facilities and training, and use effectively these crit-  
8       ical people”.

9           (3) The National Guard has the authority to  
10       operate on active duty under title 10, United States  
11       Code, and in National Guard status under title 32,  
12       United States Code.

13          (4) The National Guard can leverage the exper-  
14       tise of private sector information technology (IT)  
15       specialists and help retain the capability of retiring  
16       military personnel trained in cybersecurity matters.

17          (5) The National Guard in its status under title  
18       32, United States Code, supports the Department of  
19       Homeland Security and the Governors of the States  
20       in responding to natural disasters.

21 **SEC. 3. ENHANCEMENT OF PREPARATION FOR AND RE-**  
22 **SPONSE TO CYBER EMERGENCIES.**

23       (a) ESTABLISHMENT OF CYBER AND COMPUTER  
24 NETWORK INCIDENT RESPONSE TEAMS.—

1           (1) IN GENERAL.—The Secretary of Defense  
2 shall establish in each of the several States and the  
3 District of Columbia a separate team of members of  
4 the National Guard under section 12310(d) of title  
5 10, United States Code (as amended by subsection  
6 (b)), and section 510 of title 32, United States Code  
7 (as added by subsection (c)), to perform duties relat-  
8 ing to analysis and protection in support of pro-  
9 grams to prepare for and respond to emergencies in-  
10 volving an attack or natural disaster impacting a  
11 computer, electronic, or cyber network.

12           (2) DESIGNATION.—Each team established  
13 under paragraph (1) shall be known as a “Cyber  
14 and Computer Network Incident Response Team”.

15           (b) USE OF ACTIVE NATIONAL GUARD PER-  
16 SONNEL.—Section 12310 of title 10, United States Code,  
17 is amended—

18           (1) by redesignating subsection (d) as sub-  
19 section (e); and

20           (2) by inserting after subsection (c) the fol-  
21 lowing new subsection (d):

22           “(d) OPERATIONS RELATING TO PROTECTION OF  
23 PUBLIC AND PRIVATE CYBER INFRASTRUCTURE.—(1)  
24 Notwithstanding subsection (b), a member of the National  
25 Guard on active duty as described in subsection (a), or

1 a member of the National Guard serving on full-time Na-  
2 tional Guard duty under section 502(f) of title 32 in con-  
3 nection with functions referred to in subsection (a), may  
4 perform duties relating to analysis and protection in sup-  
5 port of programs to prepare for and respond to emer-  
6 gencies involving an attack or natural disaster impacting  
7 a computer, electronic, or cyber network.

8 “(2) The duties of members under this subsection  
9 may include duties to assist the combatant commands in  
10 developing and expanding their capacity relating to anal-  
11 ysis and protection in support of programs to prepare for  
12 and respond to emergencies involving an attack or natural  
13 disaster impacting a computer, electronic, or cyber net-  
14 work.

15 “(3) The duties performed by members under this  
16 subsection may be performed for or in support of cyber  
17 and computer network incident response teams established  
18 pursuant to section 3(a) of the Cyber Warrior Act of  
19 2013.

20 “(4) Notwithstanding section 502(f) of title 32, the  
21 costs of the pay, allowances, clothing, subsistence, gratu-  
22 ities, travel, and related expenses for a member of the Na-  
23 tional Guard performing duties under this subsection shall  
24 be paid from the appropriation that is available to pay

1 such costs for members of the regular component of the  
2 armed force of that member.

3 “(5) Members of the National Guard on active duty  
4 who are performing duty described in this subsection shall  
5 be counted against the annual end strength authorizations  
6 required by section 115(a)(1) of this title. The justifica-  
7 tion materials for the defense budget request for a fiscal  
8 year shall identify the number and component of members  
9 of the National Guard programmed to be performing du-  
10 ties described in this subsection during that fiscal year.

11 “(6) Members may not perform duties under this  
12 subsection unless the Secretary of Defense has certified  
13 to the Committee on Armed Services of the Senate and  
14 the Committee on Armed Services of the House of Rep-  
15 resentatives that the members possess the requisite skills,  
16 training, and equipment to be proficient in all mission re-  
17 quirements.”.

18 (c) USE OF NATIONAL GUARD PERSONNEL PER-  
19 FORMING TRAINING OR DRILL.—

20 (1) IN GENERAL.—Chapter 5 of title 32, United  
21 States Code, is amended by adding at the end the  
22 following new section:

1 **“§ 510. Preparation for and response to cyber emer-**  
2 **gencies**

3 “Under regulations prescribed by the Secretary of the  
4 Army or the Secretary of the Air Force, as the case may  
5 be, members of the National Guard performing training  
6 or drill required by this chapter may perform duties relat-  
7 ing to analysis and protection in support of programs to  
8 prepare for and respond to emergencies involving an at-  
9 tack or natural disaster impacting a computer, electronic,  
10 or cyber network, including in connection with cyber and  
11 computer network incident response teams established  
12 pursuant to section 3(a) of the Cyber Warrior Act of  
13 2013.”.

14 (2) CLERICAL AMENDMENT.—The table of sec-  
15 tions at the beginning of chapter 5 of such title is  
16 amended by adding at the end the following new  
17 item:

“510. Preparation for and response to cyber emergencies.”.

18 (d) HOMELAND DEFENSE ACTIVITIES.—

19 (1) IN GENERAL.—Chapter 9 of title 32, United  
20 States Code, is amended by inserting after section  
21 902 the following new section:

1 **“§ 902a. Homeland defense activities: activities relat-**  
2 **ing to preparation for and response to**  
3 **cyber emergencies**

4 “(a) IN GENERAL.—The homeland defense activities  
5 for which funds may be provided under this chapter shall  
6 include the following:

7 “(1) The provision by units or members of the  
8 National Guard of education and training for State  
9 and local law enforcement and governmental per-  
10 sonnel on analysis and protection to prepare for and  
11 respond to emergencies involving an attack or nat-  
12 ural disaster impacting a computer, electronic, or  
13 cyber network.

14 “(2) Upon the order of the Governor of the  
15 State, the performance by units or members of the  
16 National Guard of activities being undertaken by the  
17 State government and local governments in the  
18 State on analysis and protection to prepare for and  
19 respond to emergencies described in paragraph (1).

20 “(b) MEMBERS AUTHORIZED TO PERFORM ACTIVI-  
21 TIES.—The members of the National Guard who may per-  
22 form activities authorized by this section are members on  
23 full-time National Guard duty under section 502(f) of this  
24 title.

25 “(c) PERFORMANCE IN CONNECTION WITH CYBER  
26 AND COMPUTER NETWORK INCIDENT RESPONSE

1 TEAMS.—The activities performed by members under this  
2 section may be performed for or in support of cyber and  
3 computer network incident response teams established  
4 pursuant to section 3(a) of the Cyber Warrior Act of  
5 2013.

6 “(d) INAPPLICABILITY OF CERTAIN REQUIREMENTS  
7 AND LIMITATIONS.—The performance of activities under  
8 this section by members of the National Guard shall not  
9 be subject to the requirements and limitations in sub-  
10 sections (b), (c), and (d) of section 904 of this title.

11 “(e) DEFINITIONS.—In this section:

12 “(1) The term ‘Governor’, in the case of the  
13 District of Columbia, means the commanding gen-  
14 eral of the District of Columbia National Guard.

15 “(2) The term ‘State’ means the several States,  
16 the District of Columbia, the Commonwealth of  
17 Puerto Rico, and the Territories of the United  
18 States.”.

19 (2) CLERICAL AMENDMENT.—The table of sec-  
20 tions at the beginning of chapter 9 of such title is  
21 amended by inserting after the item relating to sec-  
22 tion 902 the following new item:

“902a. Homeland defense activities: activities relating to preparation for and re-  
sponse to cyber emergencies.”.

23 (e) TRAINING ON CYBER DUTIES.—

1           (1) IN GENERAL.—The Secretary of the Army  
2           and the Secretary of the Air Force shall ensure that  
3           the training provided to members of the Army Na-  
4           tional Guard and the Air National Guard, respec-  
5           tively, on analysis and protection to prepare for and  
6           respond to emergencies involving an attack or nat-  
7           ural disaster impacting a computer, electronic, or  
8           cyber network shall, to the extent practicable, be  
9           equivalent to the training provided members of the  
10          regular component of the Army and the Air Force  
11          on such matters.

12          (2) REPORTS.—Not later than one year after  
13          the date of the enactment of this Act, and annually  
14          thereafter for four years, the Secretary of Defense  
15          shall submit to the Committee on Armed Services of  
16          the Senate and the Committee on Armed Services of  
17          the House of Representatives a report on the train-  
18          ing provided to members of the Army National  
19          Guard and the Air National Guard pursuant to  
20          paragraph (1) on the matters described in that para-  
21          graph. Each report shall include a description of the  
22          training currently provided to members of the Army  
23          National Guard and the Air National Guard on such  
24          matters, and such recommendations as the Secretary  
25          considers appropriate for improvements to such

1 training in order to better align such training for  
2 members of the Army National Guard and the Air  
3 National Guard, on the one hand, and members of  
4 the regular component of the Army and the Air  
5 Force, on the other.

6 (f) ADDITIONAL REPORT.—Not later than 180 days  
7 after the date of the enactment of this Act, the Secretary  
8 of Defense shall submit to the Committee on Armed Serv-  
9 ices of the Senate and the Committee on Armed Services  
10 of the House of Representatives a report setting forth the  
11 following:

12 (1) A description and assessment of various  
13 mechanisms to recruit and retain members of the  
14 regular components and reserve components of the  
15 Armed Forces with expertise in computer network  
16 defense and operations, including modifications of  
17 the curricula for the Reserve Officers' Training  
18 Corps programs, enhanced opportunities for individ-  
19 uals to select their preferred Armed Force of acces-  
20 sion, payment of recruitment and retention bonuses,  
21 the provision of educational scholarships and sti-  
22 pends, and enhanced funding of training and certifi-  
23 cation programs.

24 (2) An assessment of the circumstances (includ-  
25 ing short-term deployment, virtual deployment, or

1 both) under which members of the reserve compo-  
2 nents with computer network defense duties can be  
3 managed without the geographic relocation of such  
4 members.

5 (3) A description of the training requirements  
6 and physical demands, if any, for military occupa-  
7 tional specialties relating to computer network de-  
8 fense.

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