

115TH CONGRESS  
1ST SESSION

# H. R. 2807

To amend title 10, United States Code, to require congressional notification concerning sensitive military cyber operations and cyber weapons, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 7, 2017

Mr. THORNBERRY (for himself, Mr. SMITH of Washington, Ms. STEFANIK, and Mr. LANGEVIN) introduced the following bill; which was referred to the Committee on Armed Services

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## A BILL

To amend title 10, United States Code, to require congressional notification concerning sensitive military cyber operations and cyber weapons, 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. NOTIFICATION REQUIREMENTS FOR SENSITIVE**  
4 **MILITARY CYBER OPERATIONS AND CYBER**  
5 **WEAPONS.**

6 (a) NOTIFICATION.—Chapter 3 of title 10, United  
7 States Code, is amended by adding at the end the fol-  
8 lowing new sections:

1 **“§ 130j. Notification requirements for sensitive mili-**  
2 **tary cyber operations**

3 “(a) IN GENERAL.—Except as provided in subsection  
4 (d), the Secretary of Defense shall promptly submit to the  
5 congressional defense committees notice in writing of any  
6 sensitive military cyber operation conducted under this  
7 title no later than 48 hours following such operation.

8 “(b) PROCEDURES.—(1) The Secretary of Defense  
9 shall establish and submit to the congressional defense  
10 committees procedures for complying with the require-  
11 ments of subsection (a) consistent with the national secu-  
12 rity of the United States and the protection of operational  
13 integrity. The Secretary shall promptly notify the congres-  
14 sional defense committees in writing of any changes to  
15 such procedures at least 14 days prior to the adoption of  
16 any such changes.

17 “(2) The congressional defense committees shall en-  
18 sure that committee procedures designed to protect from  
19 unauthorized disclosure classified information relating to  
20 national security of the United States are sufficient to pro-  
21 tect the information that is submitted to the committees  
22 pursuant to this section.

23 “(3) In the event of an unauthorized disclosure of a  
24 sensitive military cyber operation covered by this section,  
25 the Secretary shall ensure, to the maximum extent prac-  
26 ticable, that the congressional defense committees are no-

1 tified immediately of the sensitive military cyber operation  
2 concerned. The notification under this paragraph may be  
3 verbal or written, but in the event of a verbal notification  
4 a written notification shall be provided by not later than  
5 48 hours after the provision of the verbal notification.

6 “(c) SENSITIVE MILITARY CYBER OPERATION DE-  
7 FINED.—(1) In this section, the term ‘sensitive military  
8 cyber operation’ means an action described in paragraph  
9 (2) that—

10 “(A) is carried out by the armed forces or by  
11 a foreign partner in coordination with the armed  
12 forces; and

13 “(B) is intended to cause effects outside a geo-  
14 graphic location where United States armed forces  
15 are involved in hostilities (as that term is used in  
16 section 1543 of title 50, United States Code).

17 “(2) The actions described in this paragraph are the  
18 following:

19 “(A) An offensive cyber operation.

20 “(B) A defensive cyber operation outside the  
21 Department of Defense Information Networks to de-  
22 feat an ongoing or imminent threat.

23 “(d) EXCEPTIONS.—The notification requirement  
24 under subsection (a) does not apply—

1           “(1) to a training exercise conducted with the  
2 consent of all nations where the intended effects of  
3 the exercise will occur; or

4           “(2) to a covert action (as that term is defined  
5 in section 3093 of title 50, United States Code).

6           “(e) RULE OF CONSTRUCTION.—Nothing in this sec-  
7 tion shall be construed to provide any new authority or  
8 to alter or otherwise affect the War Powers Resolution (50  
9 U.S.C. 1541 et seq.), the Authorization for Use of Military  
10 Force (Public Law 107–40; 50 U.S.C. 1541 note), or any  
11 requirement under the National Security Act of 1947 (50  
12 U.S.C. 3001 et seq.).

13 **“§ 130k. Notification requirements for cyber weapons**

14           “(a) IN GENERAL.—Except as provided in subsection  
15 (c), the Secretary of Defense shall promptly submit to the  
16 congressional defense committees notice in writing of the  
17 following:

18           “(1) With respect to a cyber capability that is  
19 intended for use as a weapon, the results of any re-  
20 view of the capability for legality under international  
21 law pursuant to Department of Defense Directive  
22 5000.01 no later than 48 hours after any military  
23 department concerned has completed such review.

24           “(2) The use as a weapon of any cyber capa-  
25 bility that has been approved for such use under

1 international law by a military department no later  
2 than 48 hours following such use.

3 “(b) PROCEDURES.—(1) The Secretary of Defense  
4 shall establish and submit to the congressional defense  
5 committees procedures for complying with the require-  
6 ments of subsection (a) consistent with the national secu-  
7 rity of the United States and the protection of operational  
8 integrity. The Secretary shall promptly notify the congres-  
9 sional defense committees in writing of any changes to  
10 such procedures at least 14 days prior to the adoption of  
11 any such changes.

12 “(2) The congressional defense committees shall en-  
13 sure that committee procedures designed to protect from  
14 unauthorized disclosure classified information relating to  
15 national security of the United States are sufficient to pro-  
16 tect the information that is submitted to the committees  
17 pursuant to this section.

18 “(3) In the event of an unauthorized disclosure of a  
19 cyber capability covered by this section, the Secretary shall  
20 ensure, to the maximum extent practicable, that the con-  
21 gressional defense committees are notified immediately of  
22 the cyber capability concerned. The notification under this  
23 paragraph may be verbal or written, but in the event of  
24 a verbal notification a written notification shall be pro-

1 vided by not later than 48 hours after the provision of  
2 the verbal notification.

3 “(c) EXCEPTIONS.—The notification requirement  
4 under subsection (a) does not apply—

5 “(1) to a training exercise conducted with the  
6 consent of all nations where the intended effects of  
7 the exercise will occur; or

8 “(2) to a covert action (as that term is defined  
9 in section 3093 of title 50, United States Code).

10 “(d) RULE OF CONSTRUCTION.—Nothing in this sec-  
11 tion shall be construed to provide any new authority or  
12 to alter or otherwise affect the War Powers Resolution (50  
13 U.S.C. 1541 et seq.), the Authorization for Use of Military  
14 Force (Public Law 107–40; 50 U.S.C. 1541 note), or any  
15 requirement under the National Security Act of 1947 (50  
16 U.S.C. 3001 et seq.).”.

17 (b) CLERICAL AMENDMENT.—The table of sections  
18 at the beginning of such chapter is amended by adding  
19 at the end the following new items:

“130j. Notification requirements for sensitive military cyber operations.  
“130k. Notification requirements for cyber weapons.”.

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