

SA 1847. Mr. VAN HOLLEN (for himself and Mr. Sasse) submitted an amendment intended to be proposed by him to the bill S. 4049, to authorize appropriations for fiscal year 2021 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in title XII, insert the following:

SEC. 12__ . IMPOSITION OF SANCTIONS WITH RESPECT TO THEFT OF
TRADE SECRETS OF UNITED STATES PERSONS.

(a) Report Required.--

(1) In general.--Not later than 180 days after the date of the enactment of this Act, and not less frequently than every 180 days thereafter, the President shall submit to the appropriate congressional committees a report--

(A) identifying, for the 180-day period preceding submission of the report--

(i) any foreign person that has engaged in, or benefitted from, significant and serial theft of trade secrets of United States persons, if the theft of such trade secrets is reasonably likely to result in, or has materially contributed to, a significant threat to the national security, foreign policy, or economic health or financial stability of the United States;

(ii) any foreign person that has materially assisted or sponsored such theft;

(iii) any foreign person that has provided financial, material, or technological support for, or goods or services in support of or to benefit from, such theft;

(iv) any entity owned or controlled by, or that has acted or purported to act for or on behalf of, directly or indirectly, any foreign person identified under clause (i), (ii), or (iii); and

(v) any chief executive officer or member of the board of directors of any foreign entity identified under clause (i), (ii), or (iii); and

(B) describing the nature, objective, and outcome of the theft of trade secrets each foreign person described in subparagraph (A) (i) engaged in or benefitted from; and

(C) assessing whether any chief executive officer or member of the board of directors described in clause (v) of subparagraph (A) engaged in, or benefitted from, activity described in clause (i), (ii), or (iii) of that subparagraph.

(2) Exception.--The President is not required to include in a report required by paragraph (1) the name of any foreign person that is the subject of an active United States law enforcement investigation.

(3) Form of report.--Each report required by paragraph (1) shall be submitted in unclassified form but may include a classified annex.

(b) Authority to Impose Sanctions.--

(1) Sanctions applicable to entities.--In the case of a foreign entity identified under subparagraph (A) of

subsection (a)(1) in the most recent report submitted under that subsection, the President shall impose one of the following:

(A) Blocking of property.--The President may, pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.), block and prohibit all transactions in all property and interests in property of the entity if such property and interests in property are in the United States, come within the United States, or are or come within the possession or control of a United States person.

(B) Inclusion on denied persons list.--The President may include the entity on the Denied Persons List maintained by the Bureau of Industry and Security of the Department of Commerce pursuant to section 764.3(a)(2) of the Export Administration Regulations.

(2) Sanctions applicable to individuals.--In the case of an individual identified under subparagraph (A) of subsection (a)(1) in the most recent report submitted under that subsection, the following shall apply:

(A) Blocking of property.--The President shall, pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.), block and prohibit all transactions in all property and interests in property of the individual if such property and interests in property are in the United States, come within the United States, or are or come within the possession or control of a United States person.

(B) Visa ban; exclusion.--The Secretary of State shall deny a visa to the individual and revoke, in accordance with section 221(i) of the Immigration and Nationality Act (8 U.S.C. 1201(i)), any visa or other documentation of the individual, and the Secretary of Homeland Security shall exclude the individual from the United States.

(c) Exceptions.--

(1) Intelligence activities.--This section shall not apply with respect to activities subject to the reporting requirements under title V of the National Security Act of 1947 (50 U.S.C. 3091 et seq.) or any authorized intelligence activities of the United States.

(2) Exception relating to importation of goods.--

(A) In general.--The authority to impose sanctions under paragraph (1)(A) or (2)(A) of subsection (b) shall not include the authority or a requirement to impose sanctions on the importation of goods.

(B) Good defined.--In this paragraph, the term ``good'' means any article, natural or manmade substance, material, supply, or manufactured product, including inspection and test equipment, and excluding technical data.

(3) Exception to comply with international agreements.-- Subsection (b)(2)(B) shall not apply with respect to the admission of an individual to the United States if such admission is necessary to comply with the obligations of the United States under the Agreement regarding the Headquarters of the United Nations, signed at Lake Success June 26, 1947, and entered into force November 21, 1947, between the United Nations and the United States, under the Convention on Consular Relations, done at Vienna April 24, 1963, and entered into force March 19, 1967, or under other

international agreements.

(d) National Security Waiver.--The President may waive the imposition of sanctions under subsection (b) with respect to a person if the President--

(1) determines that such a waiver is in the national security interests of the United States; and

(2) submits to the appropriate congressional committees a notification of the waiver and the reasons for the waiver.

(e) Termination of Sanctions.--Sanctions imposed under subsection (b) with respect to a foreign person identified in a report submitted under subsection (a) shall terminate if the President certifies to the appropriate congressional committees that the person is no longer engaged in the activity identified in the report.

(f) Implementation; Penalties.--

(1) Implementation.--The President may exercise all authorities provided under sections 203 and 205 of the International Emergency Economic Powers Act (50 U.S.C. 1702 and 1704) to carry out this section.

(2) Penalties.--A person that violates, attempts to violate, conspires to violate, or causes a violation of paragraph (1) (A) or (2) (A) of subsection (b) or any regulation, license, or order issued to carry out that paragraph shall be subject to the penalties set forth in subsections (b) and (c) of section 206 of the International Emergency Economic Powers Act (50 U.S.C. 1705) to the same extent as a person that commits an unlawful act described in subsection (a) of that section.

(g) Definitions.--In this section:

(1) Appropriate congressional committees.--The term ``appropriate congressional committees'' means--

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

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

(2) Export administration regulations.--The term ``Export Administration Regulations'' means subchapter C of chapter VII of title 15, Code of Federal Regulations.

(3) Foreign entity.--The term ``foreign entity'' means an entity that is not a United States person.

(4) Foreign person.--The term ``foreign person'' means a person that is not a United States person.

(5) Trade secret.--The term ``trade secret'' has the meaning given that term in section 1839 of title 18, United States Code.

(6) Person.--The term ``person'' means an individual or entity.

(7) United states person.--The term ``United States person'' means--

(A) a United States citizen or an alien lawfully admitted for permanent residence to the United States; or

(B) an entity organized under the laws of the United States or of any jurisdiction within the United States, including a foreign branch of such an entity.