

116TH CONGRESS 1ST SESSION

S. 152

To direct the President to impose penalties pursuant to denial orders with respect to certain Chinese telecommunications companies that are in violation of the export control or sanctions laws of the United States, and for other purposes.

IN THE SENATE OF THE UNITED STATES

January 16, 2019

Mr. COTTON (for himself and Mr. VAN HOLLEN) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To direct the President to impose penalties pursuant to denial orders with respect to certain Chinese telecommunications companies that are in violation of the export control or sanctions laws 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 "Telecommunications
- 5 Denial Order Enforcement Act".

1 SEC. 2. STATEMENT OF POLICY.

2	It shall be the policy of the United States to enforce
3	denial orders on covered telecommunications companies
4	(as defined in section 3(d)) found to have violated the ex-
5	port control or sanctions laws of the United States.
6	SEC. 3. IMPOSITION AND ENFORCEMENT OF DENIAL OR-
7	DERS WITH RESPECT TO COVERED TELE-
8	COMMUNICATIONS COMPANIES.
9	(a) Imposition of Denial Orders.—
10	(1) In General.—Not later than 180 days
11	after the date of the enactment of this Act, and an-
12	nually thereafter—
13	(A) the President shall determine and re-
14	port to the appropriate congressional commit-
15	tees if any covered telecommunications company
16	is in violation of an export control or sanctions
17	law of the United States; and
18	(B) if the President makes an affirmative
19	determination with respect to a covered tele-
20	communications company under subparagraph
21	(A), the President shall impose penalties pursu-
22	ant to a denial order with respect to the com-
23	pany or its agents or affiliates as described in
24	paragraph (2).
25	(2) Penalties described.—The penalties de-
26	scribed in this paragraph are the following:

- 1 (A) The covered telecommunications com-2 pany and when acting for or on their behalf, 3 their successors, assigns, directors, officers, em-4 ployees, representatives, or agents (hereinafter 5 each a "denied person"), may not, directly or 6 indirectly, participate in any way in any trans-7 action involving any commodity, software, or 8 technology (hereinafter collectively referred to 9 as "item") exported or to be exported from the 10 United States that is subject to the Export Ad-11 ministration Regulations (as codified in sub-12 chapter C of chapter VII of title 15, Code of 13 Federal Regulations, or any successor regula-14 tions), or in any other activity subject to the 15 Export Administration Regulations.
 - (B) No person may, directly or indirectly, do any of the following:
 - (i) Export or reexport to or on behalf of a denied person any item subject to the Export Administration Regulations.
 - (ii) Take any action that facilitates the acquisition or attempted acquisition by a denied person of the ownership, possession, or control of any item subject to the Export Administration Regulations that

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which is owned, possessed, or controlled by

a denied person, or service any item, of

whatever origin, that is owned, possessed,

1	has been or will be exported from the
2	United States, including financing or other
3	support activities related to a transaction
4	whereby a denied person acquires or at-
5	tempts to acquire such ownership, posses-
6	sion, or control.
7	(iii) Take any action to acquire from
8	or to facilitate the acquisition or attempted
9	acquisition from a denied person of any
10	item subject to the Export Administration
11	Regulations that has been exported from
12	the United States.
13	(iv) Obtain from a denied person in
14	the United States any item subject to the
15	Export Administration Regulations with
16	knowledge or reason to know that the item
17	will be, or is intended to be, exported from
18	the United States.
19	(v) Engage in any transaction to serv-
20	ice any item subject to the Export Admin-
21	istration Regulations that has been or will
22	be exported from the United States and

- or controlled by a denied person if such service involves the use of any item subject to the Export Administration Regulations that has been or will be exported from the United States.
- 6 (3) Report.—The President shall submit to
 7 the appropriate congressional committees an annual
 8 report on the implementation of this subsection.
- 9 (b) Prohibition on Modification of Pen-10 ALTIES.—Notwithstanding any other provision of law, no 11 official of an executive agency may modify any penalty, including a penalty imposed pursuant to a denial order, implemented by the Government of the United States with respect to a covered telecommunications company or its 14 15 agents or affiliates pursuant to a determination that the company has violated an export control or sanctions law 16 of the United States until the date that is 30 days after 18 the President certifies to the appropriate congressional 19 committees that the company—
- 20 (1) has not, for a period of one year, conducted 21 activities in violation of the laws of the United 22 States; and
- 23 (2) is fully cooperating with investigations into 24 the activities of the company conducted by the Gov-25 ernment of the United States, if any.

1	(c) Regulations.—The President is authorized to
2	prescribe such regulations as may be necessary to carry
3	out this section.
4	(d) Definitions.—In this section:
5	(1) Appropriate congressional commit-
6	TEES.—The term "appropriate congressional com-
7	mittees" means—
8	(A) the Committee on Financial Services
9	and the Committee on Foreign Affairs of the
10	House of Representatives; and
11	(B) the Committee on Banking, Housing,
12	and Urban Affairs and the Committee on For-
13	eign Relations of the Senate.
14	(2) COVERED TELECOMMUNICATIONS COM-
15	PANY.—The term "covered telecommunications com-
16	pany" means any of the following:
17	(A) Huawei Technologies Company or
18	ZTE Corporation (or any subsidiary or affiliate
19	of such entities).
20	(B) Any other telecommunications com-
21	pany domiciled in the People's Republic of
22	China (or any subsidiary or affiliate of such en-
23	tities), excluding any subsidiary of a foreign
24	company domiciled in the People's Republic of
25	China.

1	(3) Executive agency.—The term "executive
2	agency" means—
3	(A) an executive department specified in
4	section 101 of title 5, United States Code;
5	(B) a military department specified in sec-
6	tion 102 of title 5, United States Code;
7	(C) an independent establishment as de-
8	fined in section 104(1) of title 5, United States
9	Code; and
10	(D) a wholly owned Government corpora-
11	tion fully subject to chapter 91 of title 31,
12	United States Code.

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