

AMENDMENT NO. _____ Calendar No. _____

Purpose: To require a report on the export of certain satellites to entities with certain beneficial ownership structures.

IN THE SENATE OF THE UNITED STATES—116th Cong., 1st Sess.

S. 1790

To authorize appropriations for fiscal year 2020 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.

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. BENNET

Viz:

1 At the end of subtitle F of title XII, insert the fol-
2 lowing:

3 **SEC. 1272. REPORT ON EXPORT OF CERTAIN SATELLITES**
4 **TO ENTITIES WITH CERTAIN BENEFICIAL**
5 **OWNERSHIP STRUCTURES.**

6 (a) IN GENERAL.—Not later than 180 days after the
7 date of the enactment of this Act, the Secretary of Com-
8 merce, in consultation with the heads of appropriate agen-
9 cies, shall submit to the appropriate congressional commit-
10 tees a report on addressing the threat or potential threat

1 posed by the export, reexport, or in-country transfer of
2 satellites described in section 1261(c)(1) of the National
3 Defense Authorization Act for Fiscal Year 2013 (Public
4 Law 112–239; 22 U.S.C. 2778 note) to entities described
5 in subsection (b).

6 (b) ENTITIES DESCRIBED.—

7 (1) IN GENERAL.—An entity described in this
8 subsection is an entity the beneficial owner of which
9 is—

10 (A) an individual who is a citizen or na-
11 tional of a country described in section
12 1261(c)(2) of the National Defense Authoriza-
13 tion Act for Fiscal Year 2013;

14 (B) an entity organized under the laws of
15 or otherwise subject to the jurisdiction of such
16 a country;

17 (C) the government of such a country; or

18 (D) any other individual or entity the Sec-
19 retary determines may detrimentally affect the
20 national security of the United States.

21 (2) DETERMINATION OF BENEFICIAL OWNER-
22 SHIP.—For purposes of paragraph (1), the Secretary
23 shall identify a person as the beneficial owner of an
24 entity—

1 (A) in a manner that is not less stringent
2 than the manner set forth in section 240.13d–
3 3 of title 17, Code of Federal Regulations (as
4 in effect on the date of the enactment of this
5 Act); and

6 (B) based on a threshold, to be determined
7 by the Secretary, based on an assessment of
8 whether the person’s position would give the
9 person an opportunity to control the use of a
10 satellite described in section 1261(c)(1) of the
11 National Defense Authorization Act for Fiscal
12 Year 2013 and exported, reexported, or trans-
13 ferred in country to the entity.

14 (c) ELEMENTS.—The report required by subsection
15 (a) shall include the following:

16 (1) An evaluation of whether satellites described
17 in section 1261(c)(1) of the National Defense Au-
18 thorization Act for Fiscal Year 2013 have been ex-
19 ported, reexported, or transferred in-country, di-
20 rectly or indirectly, to entities described in sub-
21 section (b).

22 (2) An examination of the effect on national se-
23 curity of the potential export, reexport, or in-country
24 transfer of satellites in compliance with section
25 1261(c) of the National Defense Authorization Act

1 for Fiscal Year 2013 in circumstances in which the
2 services, bandwidth, or functions of the satellites
3 could subsequently be leased or sold to, or otherwise
4 used by, an entity described in subsection (b).

5 (3) An examination of the effect on national se-
6 curity of not limiting the export, reexport, or in-
7 country transfer of such satellites to entities de-
8 scribed in subsection (b).

9 (4) Recommendations for, and an assessment of
10 the effectiveness of, a licensing condition that would
11 prohibit or limit the export, reexport, or in-country
12 transfer of such satellites to, or the use of such sat-
13 ellites by, entities described in subsection (b).

14 (5) An assessment, based on realistic and jus-
15 tifiable assumptions and forecasts, of the economic
16 implications of and potential harm caused by a li-
17 censing condition described in paragraph (4) on the
18 United States industries that develop or produce sat-
19 ellites and commercial telecommunications equip-
20 ment that do not have direct national security ties,
21 including any costs identified under paragraph (3).

22 (6) An evaluation of the resources necessary to
23 ensure the ability of the Bureau of Industry and Se-
24 curity of the Department of Commerce—

1 (A) to adequately identify and analyze the
2 beneficial owners of entities in decisions relating
3 to—

4 (i) issuing licenses for the export, re-
5 export, or in-country transfer of such sat-
6 ellites to such entities; or

7 (ii) the ultimate end uses and end-
8 users of such satellites; and

9 (B) when evaluating such a decision—

10 (i) to have full knowledge of the po-
11 tential end-user of the satellite and the
12 current beneficial owner of the entity; and

13 (ii) to be able to determine whether
14 issuing the license would be inconsistent
15 with the goal of preventing entities de-
16 scribed in subsection (b) from accessing or
17 using such satellites.

18 (d) FORM.—The report required by subsection (a)
19 shall be submitted in unclassified form, but may include
20 a classified annex.

21 (e) APPROPRIATE CONGRESSIONAL COMMITTEES DE-
22 FINED.—In this section, the term “appropriate congres-
23 sional committees” means—

24 (1) the Committee on Armed Services, the
25 Committee on Banking, Housing, and Urban Af-

1 fairs, the Committee on Commerce, Science, and
2 Transportation, the Committee on Foreign Rela-
3 tions, and the Select Committee on Intelligence of
4 the Senate; and

5 (2) the Committee on Armed Services, the
6 Committee on Financial Services, the Committee on
7 Energy and Commerce, the Committee on Foreign
8 Affairs, and the Permanent Select Committee on In-
9 telligence of the House of Representatives.