

117TH CONGRESS
1ST SESSION

S. _____

To expedite the provision of humanitarian assistance, including life-saving medical care, to the people of North Korea, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. MARKEY (for himself and Mr. CARDIN) introduced the following bill; which was read twice and referred to the Committee on

A BILL

To expedite the provision of humanitarian assistance, including life-saving medical care, to the people of North Korea, 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 “Enhancing North
5 Korea Humanitarian Assistance Act”.

6 **SEC. 2. FINDINGS.**

7 Congress makes the following findings:

8 (1) Providing humanitarian assistance, includ-
9 ing to countries subject to sanctions imposed by the

1 United States, is an expression of American values
2 that furthers United States interests around the
3 world and is consistent with international humani-
4 tarian law.

5 (2) As of February 2020, roughly 10,100,000
6 people in North Korea are in urgent need of food as-
7 sistance and roughly 10,400,000 need nutrition sup-
8 port and improved access to basic services, including
9 health care, water, sanitation, and hygiene facilities.

10 (3) More than 40 percent of people in North
11 Korea are undernourished, and 1 out of every 5 chil-
12 dren in the country younger than 5 years of age is
13 stunted in growth.

14 (4) More than $\frac{1}{3}$ of household drinking water
15 in North Korea is contaminated.

16 (5) Independent experts have identified severe
17 deficiencies in North Korea's public health infra-
18 structure, trained medical personnel, ability to com-
19 municate important safety information, and commit-
20 ment to addressing those deficiencies.

21 (6) North Korea has one of the highest burdens
22 of tuberculosis in the world and humanitarian assist-
23 ance is critical for countering the spread of deadly
24 infectious diseases such as tuberculosis, HIV/AIDS,

1 hepatitis B, and the coronavirus disease 2019 (com-
2 monly known as “COVID–19”).

3 (7) North Korea cannot reliably maintain
4 stocks of drugs to treat diseases such as tuberculosis
5 and HIV/AIDS, posing the risk of interrupted treat-
6 ments, which can lead to treatment failures and re-
7 sistance to multiple therapies that make treatment
8 significantly more difficult and costly.

9 (8) The spread of COVID–19 in North Korea
10 is likely having devastating consequences for the
11 people of that country who are especially vulnerable
12 to a pandemic because of deficiencies in public
13 health infrastructure. The 2019 Global Health Secu-
14 rity Index shows North Korea is the third least pre-
15 pared country in the world to combat a health secu-
16 rity crisis.

17 (9) While the Government of North Korea has
18 not reported any cases of COVID–19 in the country,
19 the true extent and impact of the novel coronavirus
20 inside North Korea is unknown, and government of-
21 ficials have not historically been open or transparent
22 about humanitarian emergencies facing the people of
23 North Korea.

24 (10) Responses to the COVID–19 crisis, includ-
25 ing border closings and quarantines, have caused

1 economic shock and hampered international efforts
2 that would otherwise be providing life-saving support
3 to the people of North Korea.

4 (11) In its final report published on August 28,
5 2020, the United Nations Panel of Experts on
6 North Korea found that “there can be little doubt
7 that United Nations sanctions have had unintended
8 effects on the humanitarian situation and aid oper-
9 ations within the Democratic People’s Republic of
10 Korea”.

11 (12) Barriers to humanitarian access can result
12 from decisions made or delayed by the Government
13 of North Korea, by the governments of other coun-
14 tries, including the governments of the United
15 States and the People’s Republic of China, and by
16 the Committee of the United Nations Security Coun-
17 cil established by United Nations Security Council
18 Resolution 1718 (2006) (referred to in this Act as
19 the “1718 Sanctions Committee”).

20 (13) Nongovernmental organizations that pro-
21 vide humanitarian assistance in North Korea must
22 typically seek simultaneous authorizations from the
23 Department of the Treasury, the Department of
24 State, the Department of Commerce, the 1718 Sanc-
25 tions Committee, customs officials in the People’s

1 Republic of China, and the Government of North
2 Korea, adding further delays to humanitarian ac-
3 cess.

4 (14) The 1718 Sanctions Committee issued the
5 document entitled “Implementation Assistance No-
6 tice No. 7” on August 6, 2018, to clarify the process
7 for granting requests for humanitarian exemptions
8 by the United Nations and to reaffirm that sanc-
9 tions are not intended to have adverse humanitarian
10 consequences for civilians in North Korea. That
11 guidance was updated on December 1, 2020, to help
12 streamline permissions for COVID–19-related aid
13 and to extend humanitarian waivers from 6 to 9
14 months.

15 (15) United States Government travel restric-
16 tions impede the access of United States employees
17 of humanitarian organizations inside North Korea
18 and can complicate the monitoring and evaluation
19 procedures that nongovernmental organizations have
20 used to ensure that aid reaches the most vulnerable
21 populations.

22 (16) Humanitarian exceptions in comprehensive
23 sanctions programs, such as the exceptions under
24 section 510.512 of the North Korea Sanctions Regu-
25 lations, are not effective unless the persons who pro-

1 vide assistance along with their financial institu-
2 tions, suppliers, shippers, and other entities can
3 make practical use of the exceptions.

4 **SEC. 3. SENSE OF CONGRESS.**

5 It is the sense of Congress that—

6 (1) the interagency review mandated by the na-
7 tional security memorandum issued by President Jo-
8 seph R. Biden, Jr., on January 21, 2021, and enti-
9 tled “National Security Memorandum on United
10 States Global Leadership to Strengthen the Inter-
11 national COVID–19 Response and to Advance Glob-
12 al Health Security and Biological Preparedness”, of-
13 fers an opportunity to make appropriate adjust-
14 ments to United States and multilateral sanctions to
15 ensure that such sanctions do not inadvertently
16 hinder humanitarian access to the people of North
17 Korea;

18 (2) national governments and multilateral au-
19 thorities must take action to mitigate documented
20 delays and ensure that sanctions imposed with re-
21 spect to North Korea do not hinder efforts to pro-
22 vide humanitarian relief, including life-saving med-
23 ical care to combat COVID–19, to the people of
24 North Korea;

1 (3) the Department of the Treasury should pro-
2 vide timely and meaningful responses to requests for
3 specific licenses given that humanitarian organiza-
4 tions typically have a limited time to execute
5 projects that must be approved by multiple United
6 States Government agencies and foreign govern-
7 ments;

8 (4) because humanitarian assistance is unlikely
9 to enable large-scale sanctions evasion and revenue
10 generation, sanctions enforcement should focus on
11 ongoing North Korean activities, including ship-to-
12 ship transfers of coal and other goods, cyberattacks,
13 and the use of forced labor abroad, all highlighted
14 in reports issued by the United Nations Panel of Ex-
15 perts on North Korea and other authoritative
16 sources;

17 (5) financial institutions should recognize and
18 consider the reputational and practical costs of im-
19 peding legitimate efforts to deliver life-saving aid to
20 North Korea; and

21 (6) as of February 2021, the Department of
22 State's travel ban for humanitarian missions to
23 North Korea, introduced in 2017, is inconsistent
24 with the intent of the North Korea Sanctions and
25 Policy Enhancement Act of 2016 (22 U.S.C. 9201

1 et seq.), which explicitly exempted work related to
2 the repatriation of the remains of United States vet-
3 erans.

4 **SEC. 4. ENHANCING EXEMPTIONS FROM UNITED STATES**
5 **SANCTIONS.**

6 (a) IN GENERAL.—Not later than 90 days after the
7 date of the enactment of this Act, the Secretary of Treas-
8 ury, acting through the Director of the Office of Foreign
9 Assets Control, shall take 1 or more of the following ac-
10 tions:

11 (1) Modify the humanitarian exception under
12 section 510.512 of the North Korea Sanctions Regu-
13 lations to cover, in addition to the food and medicine
14 already exempted, goods and other items that are
15 not subject to the Export Administration Regula-
16 tions and that support humanitarian projects to
17 meet basic human needs in North Korea so that no
18 specific license is required for such items.

19 (2)(A) Modify the North Korea Sanctions Reg-
20 ulations to exempt from a requirement for a specific
21 license a published list of nonsensitive items, in addi-
22 tion to the food and medicine already covered by sec-
23 tion 510.512 of the North Korea Sanctions Regula-
24 tions, used in humanitarian operations in North
25 Korea in furtherance of the purposes set forth in

1 section 4 of the North Korean Human Rights Act
2 of 2004 (22 U.S.C. 7802);

3 (B) ensure that the list reflects the relevant
4 recommendations included in the final report, pub-
5 lished on February 7, 2020, of the Panel of Experts
6 established pursuant to United Nations Security
7 Council Resolution 1874 (2009); and

8 (C) review and republish the list, in consulta-
9 tion with the Secretary of State and the Adminis-
10 trator of the United States Agency for International
11 Development, every 180 days and in response to re-
12 quests by nongovernmental organizations that have
13 previously engaged in authorized humanitarian ac-
14 tivities in North Korea.

15 (3) Modify the North Korea Sanctions Regula-
16 tions so that—

17 (A) a specific license from the Office of
18 Foreign Assets Control of the Department of
19 the Treasury is not required for partnerships
20 and partnership agreements between non-
21 governmental organizations and persons owned
22 or controlled by the Government of North
23 Korea that are necessary for nongovernmental
24 organizations to provide otherwise authorized

1 services related to humanitarian activity in
2 North Korea; and

3 (B) a specific license is still required for
4 any partnerships and partnership agreements
5 with persons on the list of specially designated
6 nationals and blocked persons maintained by
7 the Office of Foreign Assets Control.

8 (b) BRIEFING.—Not later than 120 days after the
9 date of the enactment of this Act, the Secretary of Treas-
10 ury shall provide to the appropriate congressional commit-
11 tees a briefing—

12 (1) for each action described in subsection (a),
13 describing whether the action was taken and pro-
14 viding a justification for the decision to take or not
15 take the action; and

16 (2) detailing the benefits and risks associated
17 with establishing a category of recognized non-
18 governmental organizations that would be exempt
19 from requirements for specific licenses related to
20 dealings with the Government of North Korea or
21 persons on the list of specially designated nationals
22 and blocked persons maintained by the Office of
23 Foreign Assets Control for purposes of transactions
24 involving goods other than food or medicine to sup-

1 port authorized humanitarian activities in North
2 Korea.

3 (c) MODIFICATION TO NORTH KOREA SANCTIONS
4 REGULATIONS.—Not later than 90 days after the date of
5 the enactment of this Act, the Secretary of the Treasury
6 shall modify the North Korea Sanctions Regulations so
7 that personal computers and related peripherals that sup-
8 port authorized humanitarian activities by nongovern-
9 mental organizations are not considered to be “luxury
10 goods”.

11 (d) GUIDANCE.—Not later than 120 days after the
12 date of the enactment of this Act, the Secretary of the
13 Treasury, acting through the Director of the Office of
14 Foreign Assets Control, shall issue plainly worded guid-
15 ance intended for financial institutions, shipping compa-
16 nies, foreign customs officials, and others involved in
17 transactions related to humanitarian assistance that—

18 (1) clarifies the applicability of the humani-
19 tarian exception under the North Korea Sanctions
20 Regulations; and

21 (2) describes best practices for ensuring that
22 activities are consistent with that exception.

23 (e) REPORT REQUIRED.—Not later than 90 days
24 after the date of the enactment of this Act, and every 120
25 days thereafter, the Secretary of the Treasury, acting

1 through the Director of the Office of Foreign Assets Con-
2 trol and in consultation with the Secretary of State, shall
3 submit to the appropriate congressional committees a re-
4 port that includes—

5 (1) a list of specific licenses related to humani-
6 tarian assistance in North Korea issued by the Of-
7 fice of Foreign Assets Control during the 120-day
8 period immediately preceding the submission of the
9 report;

10 (2) a list of requests for specific licenses related
11 to humanitarian assistance in North Korea denied
12 by the Office of Foreign Assets Control during such
13 120-day period, including explanations for the deni-
14 als;

15 (3) a list of requests for specific licenses related
16 to humanitarian assistance in North Korea that
17 have been pending for 30 days or more as of the
18 date on which the report is submitted, including ex-
19 planations for the delays;

20 (4) a list of requests by non-United States per-
21 sons for sanctions waivers related to humanitarian
22 assistance in North Korea that have been pending
23 for 30 days or more as of the date on which the re-
24 port is submitted, including explanations for the
25 delays; and

1 less burdensome for nongovernmental organizations,
2 drawing as appropriate on successes in approaches
3 taken by other United Nations sanctions commit-
4 tees.

5 (b) REPORTING.—Not later than 90 days after the
6 date of the enactment of this Act, and every 180 days
7 thereafter, the Secretary of State shall submit to the ap-
8 propriate congressional committees a report—

9 (1) describing any requests for humanitarian
10 exemptions to the 1718 Sanctions Committee known
11 to have been denied in the 180 days preceding sub-
12 mission of the report or known to have been in proc-
13 ess for more than 30 days as of the date of the re-
14 port, and any known explanations for such denials
15 and delays;

16 (2) detailing any action by a foreign govern-
17 ment in the 180 days preceding submission of the
18 report that has delayed or impeded humanitarian as-
19 sistance approved by the 1718 Sanctions Committee,
20 including the status of obstacles to humanitarian as-
21 sistance posed by customs officials in the People's
22 Republic of China; and

23 (3) describing efforts in the 180 days preceding
24 submission of the report to establish or maintain an

1 approved banking channel for transactions related to
2 humanitarian assistance for North Korea.

3 **SEC. 6. STREAMLINING HUMANITARIAN TRAVEL AUTHOR-**
4 **IZATIONS.**

5 Not later than 90 days after the date of the enact-
6 ment of this Act, the Secretary of State shall provide to
7 the appropriate congressional committees a briefing—

8 (1) detailing the benefits and risks associated
9 with issuing a “multi-entry special validation pass-
10 port” to individuals employed by a nongovernmental
11 organization known to be engaged in authorized hu-
12 manitarian activity in North Korea, with the pur-
13 pose of reducing costs and delays associated with re-
14 peated passport applications;

15 (2) detailing plans to expand eligibility for spe-
16 cial validation to travel to North Korea related to re-
17 patriation of United States veterans remains from
18 the Korean War and appropriate people-to-people
19 exchanges related to conflict reduction or family re-
20 unification; and

21 (3) setting forth a strategy to otherwise expe-
22 dite and simplify the process to obtain a special
23 travel permit to travel to North Korea on behalf of
24 a humanitarian organization or to travel to North

1 Korea using a United States passport to deliver or
2 oversee humanitarian assistance.

3 **SEC. 7. DEFINITIONS.**

4 In this Act:

5 (1) APPROPRIATE CONGRESSIONAL COMMIT-
6 TEES.—The term “appropriate congressional com-
7 mittees” means the Committee on Foreign Relations
8 of the Senate and the Committee on Foreign Affairs
9 of the House of Representatives.

10 (2) EXPORT ADMINISTRATION REGULATIONS.—
11 The term “Export Administration Regulations”
12 means the regulations set forth in subchapter C of
13 chapter VII of title 15, Code of Federal Regulations,
14 or successor regulations.

15 (3) NORTH KOREA SANCTIONS REGULATIONS.—
16 The term “North Korea Sanctions Regulations”
17 means the regulations set forth in part 510 of title
18 31, Code of Federal Regulations, or successor regu-
19 lations.