

116TH CONGRESS
2D 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 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
10 United States, is an expression of American values

1 that furthers United States interests around the
2 world and is consistent with international humani-
3 tarian law.

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

9 (3) More than 40 percent of people in North
10 Korea are undernourished, and 1 in 5 children in
11 the country under the age of 5 is stunted in growth.

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

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

19 (6) North Korea has one of the highest burdens
20 of tuberculosis in the world and humanitarian assist-
21 ance is critical for countering the spread of deadly
22 infectious diseases such as tuberculosis and the
23 coronavirus disease 2019 (commonly known as
24 "COVID-19").

1 (7) North Korea cannot reliably maintain a
2 stock of drugs to treat and cure tuberculosis, posing
3 the risk of interrupted treatments, which can lead to
4 multi-drug-resistant and extensively drug-resistant
5 strains of tuberculosis that are significantly more
6 difficult and costly to treat.

7 (8) The spread of COVID-19 in North Korea
8 would likely have devastating consequences for the
9 people of that country who are especially vulnerable
10 to a pandemic because of deficiencies in public
11 health infrastructure.

12 (9) While the Government of North Korea has
13 not reported any cases of COVID-19 in the country,
14 the extent and results of testing are unknown, and
15 government officials have not historically been open
16 or transparent about humanitarian emergencies fac-
17 ing the people of North Korea.

18 (10) Responses to the COVID-19 crisis, includ-
19 ing border closings and quarantines that may extend
20 through the planting season, have impeded inter-
21 national efforts that would otherwise be providing
22 life-saving support to the people of North Korea.

23 (11) In its final report published on March 5,
24 2019, the United Nations Panel of Experts on
25 North Korea found that “United Nations agencies

1 and humanitarian organizations continue to experi-
2 ence unintended consequences on their humanitarian
3 programmes that make it impossible to operate nor-
4 mally in the Democratic People’s Republic of
5 Korea.”.

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

15 (13) Nongovernmental organizations that pro-
16 vide humanitarian assistance in North Korea must
17 typically seek simultaneous authorizations from the
18 Department of the Treasury, the Department of
19 State, the Department of Commerce, the 1718 Sanc-
20 tions Committee, customs officials in the People’s
21 Republic of China, and the Government of North
22 Korea, adding further delays to humanitarian ac-
23 cess.

24 (14) The 1718 Sanctions Committee issued the
25 document entitled “Implementation Assistance No-

1 tice No. 7” on August 6, 2018, to clarify the process
2 for granting requests for humanitarian exemptions
3 by the United Nations and to reaffirm that sanc-
4 tions are not intended to have adverse humanitarian
5 consequences for civilians in North Korea.

6 (15) United States Government travel restric-
7 tions impede the access of United States employees
8 of humanitarian organizations inside North Korea
9 and can complicate the monitoring and evaluation
10 procedures that nongovernmental organizations have
11 used to ensure that aid reaches the most vulnerable
12 populations.

13 (16) Humanitarian exceptions in comprehensive
14 sanctions programs, such as the exceptions under
15 section 510.512 of the North Korea Sanctions Regu-
16 lations, are not effective unless the persons who pro-
17 vide assistance along with their financial institu-
18 tions, suppliers, shippers, and other entities can
19 make practical use of the exceptions.

20 **SEC. 3. SENSE OF CONGRESS.**

21 It is the sense of Congress that—

22 (1) national governments and multilateral au-
23 thorities must take action to mitigate documented
24 delays and ensure that sanctions imposed with re-
25 spect to North Korea do not hinder efforts to pro-

1 vide humanitarian relief, including life-saving med-
2 ical care, to the people of North Korea;

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

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

19 (4) financial institutions should recognize and
20 consider the reputational and practical costs of im-
21 peding legitimate efforts to deliver life-saving aid to
22 North Korea.

1 **SEC. 4. ENHANCING EXEMPTIONS FROM UNITED STATES**
2 **SANCTIONS.**

3 (a) IN GENERAL.—Not later than 90 days after the
4 date of the enactment of this Act, the Secretary of Treas-
5 ury, acting through the Director of the Office of Foreign
6 Assets Control, shall take one or more of the following
7 actions:

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

16 (2)(A) Modify the North Korea Sanctions Reg-
17 ulations to exempt from a requirement for a specific
18 license a published list of nonsensitive items, in addi-
19 tion to the food and medicine already covered by sec-
20 tion 510.512 of the North Korea Sanctions Regula-
21 tions, used in humanitarian operations in North
22 Korea in furtherance of the purposes set forth in
23 section 4 of the North Korean Human Rights Act
24 of 2004 (22 U.S.C. 7802);

25 (B) ensure that the list reflects the relevant
26 recommendations included in the final report, pub-

1 lished on March 5, 2019, of the Panel of Experts es-
2 tablished pursuant to United Nations Security
3 Council Resolution 1874 (2009); and

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

11 (3) Modify the North Korea Sanctions Regula-
12 tions so that—

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

23 (B) a specific license is still required for
24 any partnerships and partnership agreements
25 with persons on the list of specially designated

1 nationals and blocked persons maintained by
2 the Office of Foreign Assets Control.

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

7 (1) for each action described in subsection (a),
8 describing whether the action was taken and pro-
9 viding a justification for the decision to take or not
10 take the action; and

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

22 (c) MODIFICATION TO NORTH KOREA SANCTIONS
23 REGULATIONS.—Not later than 90 days after the date of
24 the enactment of this Act, the Secretary of the Treasury
25 shall modify the North Korea Sanctions Regulations so

1 that personal computers and related peripherals that sup-
2 port authorized humanitarian activities by nongovern-
3 mental organizations are not considered to be “luxury
4 goods”.

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

12 (1) clarifies the applicability of the humani-
13 tarian exception under the North Korea Sanctions
14 Regulations; and

15 (2) describes best practices for ensuring that
16 activities are consistent with that exception.

17 (e) REPORT REQUIRED.—Not later than 90 days
18 after the date of the enactment of this Act, and every 120
19 days thereafter, the Secretary of the Treasury, acting
20 through the Director of the Office of Foreign Assets Con-
21 trol, shall submit to the appropriate congressional commit-
22 tees a report—

23 (1) a list of specific licenses related to humani-
24 tarian assistance in North Korea issued by the Of-

1 office of Foreign Assets Control in the 120 days pre-
2 ceding submission of the report;

3 (2) a list of requests for specific licenses related
4 to humanitarian assistance in North Korea denied
5 by the Office of Foreign Assets Control in the 120
6 days preceding submission of the report, with expla-
7 nations for the denials;

8 (3) a list of requests for specific licenses related
9 to humanitarian assistance in North Korea that
10 have been pending for 30 days or more as of the
11 date of the report, with explanations for the delays;
12 and

13 (4) a description of recent efforts to streamline
14 the process by which nongovernmental organizations
15 engaged in humanitarian activity in North Korea
16 apply for and are granted specific licenses.

17 **SEC. 5. ENHANCING MULTILATERAL SANCTIONS EXEMP-**
18 **TIONS.**

19 (a) IN GENERAL.—The Secretary of State shall di-
20 rect the United States Permanent Representative to the
21 United Nations to use the voice, vote, and influence of the
22 United States to urge the United Nations—

23 (1) to extend the period for humanitarian ex-
24 emptions from the 1718 Sanctions Committee to 1

1 year and remove the limitation on exemption appli-
2 cations per organization per year;

3 (2) to apply lessons learned from expedited ap-
4 provals of requests for humanitarian exemptions
5 during the COVID–19 pandemic to speed approval
6 at the 1718 Sanctions Committee of other critical
7 exemption requests, such as requests that would ad-
8 dress urgent needs identified in the annual reports
9 of the United Nations on needs and priorities for
10 North Korea; and

11 (3) to modify applications for humanitarian ex-
12 emptions from the 1718 Sanctions Committee to be
13 less burdensome for nongovernmental organizations,
14 drawing as appropriate on successes in approaches
15 taken by other United Nations sanctions commit-
16 tees.

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

21 (1) describing any requests for humanitarian
22 exemptions to the 1718 Sanctions Committee known
23 to have been denied in the 180 days preceding sub-
24 mission of the report or known to have been in proc-
25 ess for more than 30 days as of the date of the re-

1 port, and any known explanations for such denials
2 and delays;

3 (2) detailing any action by a foreign govern-
4 ment in the 180 days preceding submission of the
5 report that has delayed or impeded humanitarian as-
6 sistance approved by the 1718 Sanctions Committee,
7 including the status of obstacles to humanitarian as-
8 sistance posed by customs officials in the People’s
9 Republic of China; and

10 (3) describing efforts in the 180 days preceding
11 submission of the report to establish or maintain an
12 approved banking channel for transactions related to
13 humanitarian assistance for North Korea.

14 **SEC. 6. STREAMLINING HUMANITARIAN TRAVEL AUTHOR-**
15 **IZATIONS.**

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

19 (1) detailing the benefits and risks associated
20 with issuing a “multi-entry special validation pass-
21 port” to individuals employed by a nongovernmental
22 organization known to be engaged in authorized hu-
23 manitarian activity in North Korea, with the pur-
24 pose of reducing costs and delays associated with re-
25 peated passport applications; and

1 (2) setting forth a strategy to otherwise expedite and simplify the process to obtain a special
2 travel permit to travel to North Korea on behalf of
3 a humanitarian organization or to travel to North
4 Korea using a United States passport to deliver or
5 oversee humanitarian assistance.
6

7 **SEC. 7. DEFINITIONS.**

8 In this Act:

9 (1) **APPROPRIATE CONGRESSIONAL COMMITTEES.**—The term “appropriate congressional committees” means the Committee on Foreign Relations
10 of the Senate and the Committee on Foreign Affairs
11 of the House of Representatives.
12

13 (2) **EXPORT ADMINISTRATION REGULATIONS.**—
14 The term “Export Administration Regulations”
15 means the regulations set forth in subchapter C of
16 chapter VII of title 15, Code of Federal Regulations,
17 or successor regulations.
18

19 (3) **NORTH KOREA SANCTIONS REGULATIONS.**—
20 The term “North Korea Sanctions Regulations”
21 means the regulations set forth in part 510 of title
22 31, Code of Federal Regulations, or successor regulations.
23