

115TH CONGRESS  
1ST SESSION

# S. 200

To prohibit the conduct of a first-use nuclear strike absent a declaration of war by Congress.

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IN THE SENATE OF THE UNITED STATES

JANUARY 24, 2017

Mr. MARKEY introduced the following bill; which was read twice and referred to the Committee on Foreign Relations

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## A BILL

To prohibit the conduct of a first-use nuclear strike absent a declaration of war by Congress.

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 “Restricting First Use  
5 of Nuclear Weapons Act of 2017”.

6 **SEC. 2. FINDINGS AND DECLARATION OF POLICY.**

7 (a) FINDINGS.—Congress finds the following:

8 (1) The Constitution gives Congress the sole  
9 power to declare war.

1           (2) The framers of the Constitution understood  
2 that the monumental decision to go to war, which  
3 can result in massive death and the destruction of  
4 civilized society, must be made by the representa-  
5 tives of the people and not by a single person.

6           (3) As stated by section 2(c) of the War Powers  
7 Resolution (Public Law 93–148; 50 U.S.C. 1541),  
8 “the constitutional powers of the President as Com-  
9 mander-in-Chief to introduce United States Armed  
10 Forces into hostilities, or into situations where im-  
11 minent involvement in hostilities is clearly indicated  
12 by the circumstances, are exercised only pursuant to  
13 (1) a declaration of war, (2) specific statutory au-  
14 thorization, or (3) a national emergency created by  
15 attack upon the United States, its territories or pos-  
16 sessions, or its armed forces”.

17           (4) Nuclear weapons are uniquely powerful  
18 weapons that have the capability to instantly kill  
19 millions of people, create long-term health and envi-  
20 ronmental consequences throughout the world, di-  
21 rectly undermine global peace, and put the United  
22 States at existential risk from retaliatory nuclear  
23 strikes.

1           (5) By any definition of war, a first-use nuclear  
2           strike from the United States would constitute a  
3           major act of war.

4           (6) A first-use nuclear strike conducted absent  
5           a declaration of war by Congress would violate the  
6           Constitution.

7           (b) DECLARATION OF POLICY.—It is the policy of the  
8           United States that no first-use nuclear strike should be  
9           conducted absent a declaration of war by Congress.

10 **SEC. 3. PROHIBITION ON CONDUCT OF FIRST-USE NU-**  
11 **CLEAR STRIKES.**

12           (a) PROHIBITION.—Notwithstanding any other provi-  
13           sion of law, the President may not use the Armed Forces  
14           of the United States to conduct a first-use nuclear strike  
15           unless such strike is conducted pursuant to a declaration  
16           of war by Congress that expressly authorizes such strike.

17           (b) FIRST-USE NUCLEAR STRIKE DEFINED.—In this  
18           section, the term “first-use nuclear strike” means an at-  
19           tack using nuclear weapons against an enemy that is con-  
20           ducted without the President determining that the enemy  
21           has first launched a nuclear strike against the United  
22           States or an ally of the United States.

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