

118TH CONGRESS
2D SESSION

S. _____

To require agencies to use information and communications technology products obtained from original equipment manufacturers or authorized resellers, and for other purposes.

IN THE SENATE OF THE UNITED STATES

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

A BILL

To require agencies to use information and communications technology products obtained from original equipment manufacturers or authorized resellers, 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 “Securing America’s
5 Federal Equipment in Supply Chains Act” or the “SAFE
6 Supply Chains Act”.

7 **SEC. 2. AGENCY USE OF IT PRODUCTS.**

8 (a) **DEFINITIONS.**—In this section:

1 (1) AGENCY.—The term “agency” has the
2 meaning given the term in section 3502 of title 44,
3 United States Code.

4 (2) APPROPRIATE CONGRESSIONAL COMMIT-
5 TEES.—The term “appropriate congressional com-
6 mittees” means the Committee on Homeland Secu-
7 rity and Governmental Affairs of the Senate and the
8 Committee on Oversight and Accountability of the
9 House of Representatives.

10 (3) AUTHORIZED RESELLER.—The term “au-
11 thorized reseller” means a reseller, after market
12 manufacturer, supplier, or distributor of a covered
13 product with a direct or prime contractual arrange-
14 ment with, or the express written authority of, the
15 original equipment manufacturer of the covered
16 product to manufacture, buy, stock, repackage, sell,
17 resell, repair, service, otherwise support, or dis-
18 tribute the covered product.

19 (4) COVERED PRODUCT.—The term “covered
20 product”—

21 (A) means an information and communica-
22 tions technology end-use hardware product or
23 component, including software and firmware
24 that comprise the end-use hardware product or
25 component; and

- 1 (B) does not include—
- 2 (i) other software; or
- 3 (ii) an end-use hardware product—
- 4 (I) in which there is embedded
- 5 information and communications tech-
- 6 nology; and
- 7 (II) the principal function of
- 8 which is not the creation, manipula-
- 9 tion, storage, display, receipt, or
- 10 transmission of electronic data and in-
- 11 formation.

12 (5) END-USE PRODUCT.—The term “end-use

13 product” means a product ready for use by the

14 maintainer, integrator, or end user of the product.

15 (6) INFORMATION AND COMMUNICATIONS

16 TECHNOLOGY.—The term “information and commu-

17 nications technology”—

18 (A) has the meaning given the term in sec-

19 tion 4713 of title 41, United States Code; and

20 (B) includes information and communica-

21 tions technologies covered by definitions con-

22 tained in the Federal Acquisition Regulation,

23 including definitions added after the date of the

24 enactment of this Act by the Federal Acquisi-

1 tion Regulatory Council pursuant to notice and
2 comment.

3 (7) ORIGINAL EQUIPMENT MANUFACTURER.—

4 The term “original equipment manufacturer” means
5 a company that manufactures a covered product
6 that the company—

7 (A) designed from self-sourced or pur-
8 chased components; and

9 (B) sells under the name of the company.

10 (b) PROHIBITION ON PROCUREMENT AND USE.—

11 Subject to subsection (c) and notwithstanding sections
12 1905 through 1907 of title 41, United States Code, the
13 head of an agency may not procure or obtain, renew a
14 contract to procure or obtain, or use a covered product
15 that is procured from an entity other than—

16 (1) an original equipment manufacturer; or

17 (2) an authorized reseller.

18 (c) WAIVER.—

19 (1) IN GENERAL.—Upon written notice to the
20 Director of the Office of Management and Budget,
21 the head of an agency may waive the prohibition
22 under subsection (b) with respect to a covered prod-
23 uct if the head of the agency determines that—

24 (A) the waiver is necessary in the interest
25 of national security; or

1 (B) procuring, obtaining, or using the cov-
2 ered product is necessary—

3 (i) for the purpose of scientifically
4 valid research (as defined in section 102
5 the Education Sciences Reform Act of
6 2002 (20 U.S.C. 9501)); or

7 (ii) to avoid jeopardizing the perform-
8 ance of mission critical functions.

9 (2) NOTICE.—The notice described in para-
10 graph (1)—

11 (A) shall—

12 (i) specify, with respect to the waiver
13 under paragraph (1)—

14 (I) the justification for the waiv-
15 er;

16 (II) any security mitigations that
17 have been implemented; and

18 (III) with respect to a waiver
19 that necessitates a security mitigation,
20 the plan of action and milestones to
21 avoid future waivers for subsequent
22 similar purchases; and

23 (ii) be submitted in an unclassified
24 form; and

25 (B) may include a classified annex.

1 (3) DURATION.—With respect to a waiver for
2 the purpose of research, as described in paragraph
3 (1)(B)(i), the waiver shall be effective for the dura-
4 tion of the research identified in the waiver.

5 (d) REPORTS TO CONGRESS.—

6 (1) IN GENERAL.—Not later than 1 year after
7 the date of enactment of this Act, and annually
8 thereafter until the date that is 6 years after the
9 date of enactment of this Act, the Director of the
10 Office of Management and Budget shall submit to
11 the appropriate congressional committees a report
12 that lists—

13 (A) the number and types of covered prod-
14 ucts for which a waiver under subsection (c)(1)
15 was granted during the 1-year period preceding
16 the date of the submission of the report; and

17 (B) the legal authority under which each
18 waiver described in subparagraph (A) was
19 granted, such as whether the waiver was grant-
20 ed pursuant to subparagraph (A) or (B) of sub-
21 section (c)(1).

22 (2) CLASSIFICATION OF REPORT.—Each report
23 submitted under this subsection—

24 (A) shall be submitted in unclassified form;
25 and

1 (B) may include a classified annex that
2 contains the information described in paragraph
3 (1)(B).

4 (e) EFFECTIVE DATE.—This section shall take effect
5 on the date that is 1 year after the date of enactment
6 of this Act.