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(Original Signature of Member)

119TH CONGRESS
1ST SESSION

H. R. _____

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

IN THE HOUSE OF REPRESENTATIVES

Mr. FALLON introduced the following bill; which was referred to the Committee on _____

A BILL

To require the Department of Defense 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 Supply Chains Act” or the “SAFE
6 Supply Chains Act”.

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

2 (a) DEFINITIONS.—In this section:

3 (1) AUTHORIZED RESELLER.—The term “au-
4 thORIZED reseller” means a reseller, after market
5 manufacturer, supplier, or distributor of a covered
6 product with a direct or prime contractual arrange-
7 ment with, or the express written authority of, the
8 original equipment manufacturer of the covered
9 product to manufacture, buy, stock, repackage, sell,
10 resell, repair, service, otherwise support, or dis-
11 tribute the covered product.

12 (2) COVERED PRODUCT.—The term “covered
13 product”—

14 (A) means an information and communica-
15 tions technology end-use hardware product or
16 component, including software and firmware
17 that comprise the end-use hardware product or
18 component; and

19 (B) does not include—

20 (i) other software; or

21 (ii) an end-use hardware product—

22 (I) in which there is embedded
23 information and communications tech-
24 nology; and

25 (II) the principal function of
26 which is not the creation, manipula-

1 tion, storage, display, receipt, or
2 transmission of electronic data and in-
3 formation.

4 (3) END-USE PRODUCT.—The term “end-use
5 product” means a product ready for use by the
6 maintainer, integrator, or end user of the product.

7 (4) INFORMATION AND COMMUNICATIONS
8 TECHNOLOGY.—The term “information and commu-
9 nications technology”—

10 (A) has the meaning given the term in sec-
11 tion 4713 of title 41, United States Code; and

12 (B) includes information and communica-
13 tions technologies covered by definitions con-
14 tained in the Federal Acquisition Regulation,
15 including definitions added after the date of the
16 enactment of this Act by the Federal Acquisi-
17 tion Regulatory Council pursuant to notice and
18 comment.

19 (5) ORIGINAL EQUIPMENT MANUFACTURER.—
20 The term “original equipment manufacturer” means
21 a company that manufactures a covered product
22 that the company—

23 (A) designed from self-sourced or pur-
24 chased components; and

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

1 (b) PROHIBITION ON PROCUREMENT AND USE.—
2 Subject to subsection (c) and notwithstanding sections
3 1905 through 1907 of title 41, United States Code, the
4 Secretary of Defense may not procure or obtain, renew
5 a contract to procure or obtain, or use a covered product
6 that is procured from an entity other than—

- 7 (1) an original equipment manufacturer; or
8 (2) an authorized reseller.

9 (c) WAIVER.—

10 (1) IN GENERAL.—Upon notice to congressional
11 defense committees, the Secretary of Defense may
12 waive the prohibition under subsection (b) with re-
13 spect to a covered product if the Secretary deter-
14 mines that procuring, obtaining, or using the cov-
15 ered product is necessary—

16 (A) for the purpose of scientifically valid
17 research (as defined in section 102 the Edu-
18 cation Sciences Reform Act of 2002 (20 U.S.C.
19 9501)); or

20 (B) to avoid jeopardizing the performance
21 of mission critical functions.

22 (2) NOTICE.—The notice described in para-
23 graph (1)—

24 (A) shall—

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

3 (I) the justification for the waiv-
4 er;

5 (II) any security mitigations that
6 have been implemented; and

7 (III) with respect to a waiver
8 that necessitates a security mitigation,
9 the plan of action and milestones to
10 avoid future waivers for subsequent
11 similar purchases; and

12 (ii) provide a declaration that covered
13 product is not being purchased from an en-
14 tity that is under the influence or control
15 of a foreign adversary; and

16 (iii) be submitted in an unclassified
17 form; and

18 (B) may include a classified annex.

19 (3) DURATION.—With respect to a waiver for
20 the purpose of research, as described in paragraph
21 (1)(A), the waiver shall be effective for the duration
22 of the research identified in the waiver.

23 (d) **VENDOR TECHNICAL ASSISTANCE.**—The Sec-
24 retary of Defense shall establish procurement guidance to
25 provide assistance to entities that are not eligible for pro-

1 currences of covered products due to the prohibition
2 under subsection (b) on the process of becoming an au-
3 thorized reseller for covered products.

4 (e) REPORTS TO CONGRESS.—

5 (1) IN GENERAL.—Not later than 1 year after
6 the date of enactment of this Act, and annually
7 thereafter until the date that is 6 years after the
8 date of enactment of this Act, the Secretary of De-
9 fense shall submit to the Committee on Armed Serv-
10 ices of the Senate and the Committee on Armed
11 Services of the House of Representatives a report
12 that provides—

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

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 (e)(1); and

22 (C) any actions taken by the Secretary to
23 reduce the number of waivers issued by the De-
24 partment of Defense under subsection (e)(1)

1 with the goal of achieving full compliance with
2 the prohibition under subsection (b).

3 (2) CLASSIFICATION OF REPORT.—Each report
4 submitted under this subsection—

5 (A) shall be submitted in unclassified form;
6 and

7 (B) may include a classified annex that
8 contains the information described in paragraph
9 (1)(B).

10 (f) NO NEW FUNDS.—No additional amounts are au-
11 thorized to be appropriated for the purpose of carrying
12 out this Act.

13 (g) EFFECTIVE DATE.—This section shall take effect
14 on the date that is 1 year after the date of enactment
15 of this Act.