

SMALL BUSINESS INNOVATION PROTECTION ACT OF 2017

DECEMBER 19, 2018.—Ordered to be printed

Mr. RISCH, from the Committee on Small Business and
Entrepreneurship, submitted the following

R E P O R T

[To accompany S. 791]

[Including cost estimate of the Congressional Budget Office]

The Committee on Small Business and Entrepreneurship, to which was referred the bill (S. 791) to amend the Small Business Act to expand intellectual property education and training for small businesses, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

I. INTRODUCTION

Small Business Innovation Protection Act of 2017, (S. 791), was introduced by Senator Gary C. Peters, for himself, and Senator James E. Risch, the Committee's Chairman, on March 30, 2017.

This bill provides for in-person and online training and resources for small businesses related to domestic and international protection of intellectual property through Small Business Development Centers (SBDCs) and the U.S. Patent and Trademark Office (USPTO).

During the markup of the bill, the bill was approved unanimously by a roll call vote as part of a manager's package.

II. HISTORY (PURPOSE & NEED FOR LEGISLATION)

America's intellectual property-intensive industries employ nearly 19 million workers at all education and skill levels and represent forty percent of the country's economic growth. The value of U.S. intellectual property is estimated at over \$5 trillion, and sixty percent of U.S. exports come from intellectual property-intensive industries. Patent protection helps innovators recoup the cost of research and development, capitalize on their inventions, create jobs, and grow the economy. In 2012, Detroit became home to the first-

ever satellite office for the United States Patent and Trademark outside of Washington, DC.

Obtaining a patent from the USPTO protects against infringement in the U.S. However, if a small business does not register in a foreign market, such as China, it has no protection there. Patent protection is necessary to ensure the ability to enforce businesses' rights both at home and abroad. Additionally, patents help defend American inventors against lawsuits. This Act is designed to help ensure small businesses are aware of the need and mechanisms available to accurately and effectively pursue an international patent.

The language in this bill was developed to increase access to USPTO training and materials for entrepreneurs and small business owners across the country. In the 114th Congress Senator Gary C. Peters and the Committee's Chairman, Senator David Vitter introduced similar legislation, the Small Business Innovation Protection Act of 2016. The bill was reported favorably by the Committee with an 18–1 vote, but did not receive consideration by the full Senate.

III. HEARINGS & ROUNDTABLES

In the 115th Congress, the Committee held a hearing on April 26, 2017 entitled, "The Challenges and Opportunities of Running a Small Business in Rural America" on the needs of small businesses in rural areas. From this hearing and from conversations with constituents in Senators' Peters' and Risch's districts, a need for more information on patent protection was clearly needed where would-be small business owners live—not just near the U.S. Patent and Trademark Office.

In the 114th Congress, the Committee held a hearing on February 25, 2016 entitled "An Examination of Changes to the U.S. Patent System and Impacts on America's Small Businesses," and a hearing on March 19, 2015 entitled, "Patent Reform: Protecting Innovation and Entrepreneurship." These hearings both highlighted the importance of patent protection for small businesses and the need for the Committee to take steps to educate entrepreneurs about guarding their innovations as part of their business plan.

IV. DESCRIPTION OF BILL

The bill amends the Small Business Act by requiring the Small Business Administration (SBA) to develop partnership agreements that develop training for small businesses related to protecting domestic and international intellectual property and leveraging training materials already developed for inventors. These agreements must provide training through electronic resources at SBDCs and USPTO locations. This bill requires SBDCs to include in-person or online training on intellectual property protection as part of a business plan and growth strategy.

V. COMMITTEE VOTE

In compliance with rule XXVI (7)(b) of the Standing Rules of the Senate, the following vote was recorded on March 14, 2018.

A motion to adopt the Small Business Innovation Protection Act of 2017, a bill to amend the Small Business Act to expand intellectual property education and training for small businesses, and for other purposes, was approved unanimously by a roll call vote as part of a manager's package. Senators Risch, Rubio, Paul, Scott, Ernst, Inhofe, Young, Enzi, Rounds, Kennedy, Cardin, Cantwell, Shaheen, Heitkamp, Markey, Booker, Coons, Hirono, and Duckworth voted for the bill.

VI. COST ESTIMATE

In compliance with rule XXVI (11)(a)(1) of the Standing Rules of the Senate, the Committee estimates the cost of the legislation will be equal to the amounts discussed in the following letter from the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, April 18, 2018.

Hon. JAMES E. RISCH,
*Chairman, Committee on Small Business and Entrepreneurship,
U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 791, the Small Business Innovation Protection Act of 2017.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Stephen Rabent.

Sincerely,

KEITH HALL,
Director.

Enclosure.

S. 791—the Small Business Innovation Protection Act of 2017

S. 791 would require the Small Business Administration (SBA) and United States Patent and Trademark Office (PTO) to develop training materials for small businesses on domestic and international protection of intellectual property. The bill would require Small Business Development Centers, in conjunction with PTO, to provide this training either electronically or at a physical location. The SBA funds a portion of the operations of Small Business Development Centers, which provide counseling, training, and technical assistance to small businesses.

Using information from PTO and the SBA about the resources needed to conduct such training, CBO estimates that the costs to implement S. 791 would not be significant. Enacting S. 791 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

CBO estimates that enacting S. 791 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2029.

S. 791 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.

On April 18, 2018, CBO transmitted a cost estimate for H.R. 2655, the Small Business Innovation Protection Act of 2017, as ordered reported by the House Committee on Small Business on

March 14, 2018. The bills are similar, and CBO’s estimates of their budgetary effects are the same.

The CBO staff contact for this estimate is Stephen Rabent. The estimate was reviewed by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

VII. EVALUATION OF REGULATORY IMPACT

In compliance with rule XXVI (11)(b) of the Standing Rules of the Senate, it is the opinion of the Committee that no significant additional regulatory impact will be incurred in carrying out the provisions of this legislation. There will be no additional impact on the personal privacy of companies or individuals who utilize the services provided.

VIII. SECTION-BY-SECTION ANALYSIS

Section 1. Short title

This section provides the short title: “Small Business Innovation Protection Act of 2017.”

Sec. 2. Definitions

This section defines the meaning of “Administrator,” “Director,” “SBA,” “small business concern,” “small business development center,” and “USPTO.”

Sec. 3. Findings

This section finds that the USPTO and SBA are positioned to increase the availability of Intellectual Property (IP) education programs aimed at small businesses, and that these programs should be scalable to reach more small businesses.

Sec. 4. SBA and USPTO partnerships

This section directs the SBA and the USPTO to enter into a partnership agreement within 180 days of enactment to develop in-person or modular training sessions for small businesses on domestic and international IP law. These entities may work with nongovernmental organizations and use already-existing training materials. Sessions may be conducted through webinars and at SBDCs and regional USPTO offices.

Sec. 5. Small Business Development Centers

This section requires SBDCs, in partnership with USPTO, to provide domestic and international IP education training to small businesses either in-person or through a website.