CONSUMER SAFETY TECHNOLOGY ACT

SEPTEMBER 29, 2020.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. PALLONE, from the Committee on Energy and Commerce, submitted the following

R E P O R T

[To accompany H.R. 8128]

The Committee on Energy and Commerce, to whom was referred the bill (H.R. 8128) to direct the Consumer Product Safety Commission to establish a pilot program to explore the use of artificial intelligence in support of the consumer product safety mission of the Commission, having considered the same, reports favorably thereon with amendments and recommends that the bill as amended do pass.

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The amendments are as follows:
Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Consumer Safety Technology Act".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

SEC. 2. DEFINITIONS.

In this Act—
(1) the term "consumer product" has the meaning given such term in section 3(a) of the Consumer Product Safety Act (15 U.S.C. 2052(a)); and
(2) the term "Secretary" means the Secretary of Commerce.

TITLE I—ARTIFICIAL INTELLIGENCE AND CONSUMER PRODUCT SAFETY

SEC. 101. SHORT TITLE.

This title may be cited as the "AI for Consumer Product Safety Act".

SEC. 102. PILOT PROGRAM FOR USE OF ARTIFICIAL INTELLIGENCE BY CONSUMER PRODUCT SAFETY COMMISSION.

(a) ESTABLISHMENT.—Not later than 1 year after the date of enactment of this Act, the Consumer Product Safety Commission shall establish a pilot program to explore the use of artificial intelligence by the Commission in support of the consumer product safety mission of the Commission.

(b) REQUIREMENTS.—In conducting the pilot program established under subsection (a), the Commission shall do the following:
(1) Use artificial intelligence for at least 1 of the following purposes:
(A) Tracking trends with respect to injuries involving consumer products.
(B) Identifying consumer product hazards.
(C) Monitoring the retail marketplace (including internet websites) for the sale of recalled consumer products (including both new and used products).
(D) Identifying consumer products required by section 17(a) of the Consumer Product Safety Act (15 U.S.C. 2066(a)) to be refused admission into the customs territory of the United States.
(2) Consult with the following:
(A) Technologists, data scientists, and experts in artificial intelligence and machine learning.
(B) Cybersecurity experts.
(C) Members of the retail industry.
(D) Consumer product manufacturers.
(E) Consumer product safety organizations.
(F) Any other person the Commission considers appropriate.

(c) REPORT TO CONGRESS.—Not later than 180 days after the conclusion of the pilot program established under subsection (a), the Consumer Product Safety Commission shall submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate, and make publicly available on the website of the Commission, a report on the findings and data derived from such program, including whether and the extent to which the use of artificial intelligence improved the ability of the Commission to advance the consumer product safety mission of the Commission.

TITLE II—BLOCKCHAIN TECHNOLOGY INNOVATION

SEC. 201. SHORT TITLE.

This title may be cited as the "Blockchain Innovation Act".

SEC. 202. STUDY ON BLOCKCHAIN TECHNOLOGY AND ITS USE IN CONSUMER PROTECTION.

(a) IN GENERAL.—

(1) STUDY REQUIRED.—Not later than one year after the date of enactment of this Act, the Secretary of Commerce, in consultation with the Federal Trade Commission, and in consultation with the any other appropriate Federal agency the Secretary determines appropriate, shall conduct a study on current and potential use of blockchain technology in commerce and the potential benefits of blockchain technology for limiting fraud and other unfair and deceptive acts and practices.

(2) REQUIREMENTS FOR STUDY.—In conducting the study, the Secretary shall examine—

(A) trends in the commercial use of and investment in blockchain technology;

(B) best practices in facilitating public-private partnerships in blockchain technology;

(C) potential benefits and risks of blockchain technology for consumer protection;

(D) how blockchain technology can be used by industry and consumers to reduce fraud and increase the security of commercial transactions;

(E) areas in Federal regulation of blockchain technology that greater clarity would encourage domestic innovation: and

(F) any other relevant observations or recommendations related to blockchain technology and consumer protection.

(3) PUBLIC COMMENT.—In producing the study required in subsection (a)(2), the Secretary shall provide opportunity for public comment and advice relevant to the production of the study.

(b) REPORT TO CONGRESS.—Not later than 6 months after the completion of the study required pursuant to subsection (a), the Secretary shall submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate, and make publicly available on the website of the Department of Commerce, a report that contains the results of the study conducted under subsection (a).

TITLE III—DIGITAL TOKEN TAXONOMY

SEC. 301. SHORT TITLE.

This title may be cited as the "Digital Taxonomy Act".

SEC. 302. FINDINGS.

Congress finds that—

(1) it is important that the United States remains a leader in innovation;

(2) digital tokens and blockchain technology are driving innovation and providing consumers with increased choice and convenience;

(3) the use of digital tokens and blockchain technology is likely to increase in the future;

(4) the Federal Trade Commission is responsible for protecting consumers from unfair or deceptive acts or practices, including relating to digital tokens;

(5) the Commission has previously taken action against unscrupulous companies and individuals that committed unfair or deceptive acts or practices involving digital tokens; and

(6) to bolster the Commission's ability to enforce against unfair or deceptive acts or practices involving digital tokens, the Commission should ensure staff have appropriate training and resources to identify and pursue such cases.

SEC. 303. REPORTS ON UNFAIR OR DECEPTIVE ACTS OR PRACTICES IN TRANSACTIONS RELATING TO DIGITAL TOKENS.

Not later than one year after the date of enactment of this Act and each year thereafter until fiscal year 2024, the Federal Trade Commission shall transmit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate, and make publicly available on its website, a report of—

(1) any actions taken by the Commission relating to unfair or deceptive acts or practices in transactions relating to digital tokens;

(2) the Commission's other efforts to prevent unfair or deceptive acts or practices relating to digital tokens; and

(3) any recommendations by the Commission for legislation that would improve the ability of the Commission and other relevant Federal agencies—

(A) to further protect consumers from unfair or deceptive acts or practices in the digital token marketplace; and

(B) to promote competition and promote innovation in the global digital token sector.

Amend the title so as to read:

A bill to direct the Consumer Product Safety Commission to establish a pilot program to explore the use of artificial intelligence in support of the mission of the Commission and direct the Secretary of Commerce and the Federal Trade Commission to study and report on the use of blockchain technology and digital tokens, respectively.

I. PURPOSE AND SUMMARY

H.R. 8128, the "Consumer Safety Technology Act", was introduced on August 28, 2020, by Representatives Jerry McNerney (D–CA) and Michael C. Burgess (R–TX). H.R. 8128, as remoted, incorporates text based on two additional bills that together help modernize our consumer protection agencies.

H.R. 8128 requires the Consumer Product Safety Commission (CPSC) to establish a pilot program to explore the use of artificial intelligence for at least one of the following purposes: (1) tracking injury trends; (2) identifying consumer product hazards; (3) monitoring the retail marketplace for the sale of recalled consumer products; or (4) identifying unsafe imported consumer products.

During its consideration of the bill, the full Committee adopted an amendment in the nature of a substitute incorporating text based on two other bills referred to the Committee on Energy and Commerce: H.R. 8153, the "Blockchain Innovation Act" and an amended version of H.R. 2154, the "Digital Taxonomy Act". H.R. 8153 directs the Department of Commerce (DOC), in consultation with the Federal Trade Commission (FTC), to conduct a study and submit to Congress a report on the state of blockchain technology in commerce, including its use to reduce fraud and increase security. H.R. 2154, as incorporated, directs the FTC to submit to Congress a report and recommendations on unfair or deceptive acts or practices relating to digital tokens.

II. BACKGROUND AND NEED FOR LEGISLATION

The Consumer Product Safety Commission is charged with protecting the public from unreasonable risks of injury or death associated with the use of the thousands of types of consumer products under the agency's jurisdiction.[1] The CPSC has various tools to support its consumer product safety mission but faces growing challenges. The CPSC has broad jurisdiction over more than 15,000 consumer products used in and around the home, in recreation, in schools, and more.[2] In addition, international trade and technological advances have further expanded the range of products in the market, making overseeing and regulating consumer products even more complex.[3] Changing consumer trends, including the rise of online shopping, also requires the CPSC to refocus its efforts to

[1] U.S. Consumer Product Safety Commission, *About CPSC* (www.cpsc.gov/About-CPSC).
[2] Recalls.gov, *Your Online Source for Recalls* (www.recalls.gov/cpsc.html).
[3] U.S. Consumer Product Safety Commission, *Strategic Plan 2018–2022* (www.cpsc.gov/s3fs-public/CPSC_2018-2022_Strategic_Plan.pdf).

protect consumers from unsafe e-commerce shipments entering the United States.[4]

Artificial intelligence (AI) and machine learning, a subset of AI, have vast potential benefits and can support the CPSC's product safety mission and improve the agency's operations. AI could help identify hazardous products, assess the risk of imported consumer products and monitor online marketplaces for recalled products. At a recent Subcommittee on Consumer Protection and Commerce hearing, former CPSC Acting Chairman Ann Marie Buerkle testified that the CPSC is not currently using AI but that AI could help the agency analyze more data.[5]

Another emerging technology that can be useful in promoting consumer protection is blockchain technology.[6] Already widely used in cryptocurrencies, blockchain has the potential to benefit many other industries because of its ability to keep track of transactions accurately, securely, and efficiently.[7] At the same time, blockchain technology, including its use in cryptocurrencies, may come with risks for consumers.[8]

H.R. 8128 is needed to help ensure our consumer protection agencies stay up to date with emerging technologies and to encourage the use of emerging technologies such as AI and blockchain in support of product safety and consumer protection.

III. COMMITTEE HEARINGS

For the purposes of section 103(i) of H. Res. 6 of the 116th Congress, the following hearing was used to develop or consider H.R. 8128:

In the 114th Congress, the Subcommittee on Commerce, Manufacturing, and Trade held an informational hearing on March 16, 2016. The hearing was entitled, "The Disrupter Series: Digital Currency and Blockchain Technology." The Subcommittee received testimony from the following witnesses:

- John A. Beccia III, General Counsel and Chief Compliance Officer, Circle Internet Financial (*on behalf of the Electronic Transactions Association*)
- Jerry Brito, Executive Director, Coin Center
- Jerry Cuomo, Vice President Blockchain Technologies, IBM
- Matthew Roszak, Chairman, Chamber of Digital Commerce, and Co-Founder, Bloq. Inc.
- Paul Snow, Chief Architect, Factom
- Juan Suarez, Counsel, Coinbase
- Dana Syracuse, Counsel, BuckleySandler LLP

In the 116th Congress, the Subcommittee on Consumer Protection and Commerce held an oversight hearing on April 9, 2019. The

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[4] U.S. Consumer Product Safety Commission, *CPSC e-Commerce Assessment Report* (Nov. 2019) (www.cpsc.gov/s3fs-public/CPSC-e-Commerce-Assessment-Report.pdf).

[5] Subcommittee on Consumer Protection and Commerce, House Committee on Energy and Commerce, *Protecting Americans from Dangerous Products: Is the Consumer Product Safety Commission Fulfilling Its Mission?*, 116th Cong. (2019) (H. Rept. 116–23).

[6] Investopedia, *Blockchain Explained* (Feb. 1, 2020) (www.investopedia.com/terms/b/blockchain.asp).

[7] *The Growing List of Applications and Use Cases of Blockchain Technology in Business And Life*, Business Insider (Mar. 2, 2020) (www.businessinsider.com/blockchain-technology-applications-use-cases).

[8] Federal Trade Commission, *Know the Risks Before Investing in Cryptocurrencies* (Feb. 16, 2018) (www.ftc.gov/news-events/blogs/business-blog/2018/02/know-risks-investing-cryptocurrencies); *See note 7.*

hearing was entitled, "Protecting Americans from Dangerous Products: Is the Consumer Product Safety Commission Fulfilling Its Mission?" The Subcommittee received testimony from the following witnesses:

Panel I:

- The Honorable Ann Marie Buerkle, Acting Chairman, Consumer Product Safety Commission
- The Honorable Elliot F. Kaye, Commissioner, Consumer Product Safety Commission
- The Honorable Robert S. Adler, Commissioner, Consumer Product Safety Commission
- The Honorable Dana Baiocco, Commissioner, Consumer Product Safety Commission
- The Honorable Peter A. Feldman, Commissioner, Consumer Product Safety Commission

Panel II:

- Rachel Weintraub, Legislative Director and General Counsel, Consumer Federation of America
- Nancy Cowles, Executive Director, Kids in Danger
- Remington A. Gregg, Counsel for Civil Justice and Consumer Rights, Public Citizen
- Mike Gentine, Counsel, Schiff Hardin LLP

In the 116th Congress, the Subcommittee on Consumer Protection and Commerce held an oversight hearing on May 8, 2019. The hearing was entitled, "Oversight of the Federal Trade Commission: Strengthening Protections for Americans' Privacy and Data Security?" The Subcommittee received testimony from the following witnesses:

- The Honorable Joseph J. Simons, Acting Chairman, Federal Trade Commission
- The Honorable Noah Joshua Phillips, Commissioner, Federal Trade Commission
- The Honorable Rohit Chopra, Commissioner, Federal Trade Commission
- The Honorable Rebecca Kelly Slaughter, Commissioner, Federal Trade Commission
- The Honorable Christine S. Wilson, Commissioner, Federal Trade Commission

IV. COMMITTEE CONSIDERATION

Representatives McNerney (D–CA) and Burgess (R–TX) introduced H.R. 8128, the "Consumer Safety Technology Act", on August 28, 2020, and the bill was referred to the Committee on Energy and Commerce. The bill was referred to the Subcommittee on Consumer Protection and Commerce on August 31, 2020.

On September 9, 2020, the bill was discharged from further consideration by the Subcommittee on Consumer Protection and Commerce as the bill was called up for markup by the full Committee. The Committee on Energy and Commerce met in virtual open markup session, pursuant to notice, on September 9, 2020, to consider H.R. 8128. During consideration of the bill, an amendment in the nature of a substitute offered by Mr. McNerney, on behalf of himself, Mr. Burgess, and Mr. Guthrie, was agreed to by a voice

vote. Mr. Pallone, Chairman of the committee, subsequently moved that H.R. 8128 be ordered reported favorably to the House, amended, and the Committee on Energy and Commerce agreed to the motion on final passage by a voice vote, a quorum being present.

V. COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list each record vote on the motion to report legislation and amendments thereto. The Committee advises that there were no record votes taken on H.R. 8128, including the motion for final passage of the bill.

VI. OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of rule XIII and clause 2(b)(1) of rule X of the Rules of the House of Representatives, the oversight findings and recommendations of the Committee are reflected in the descriptive portion of the report.

VII. NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

Pursuant to 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the estimate of new budget authority, entitlement authority, or tax expenditures or revenues contained in the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

The Committee has requested but not received from the Director of the Congressional Budget Office a statement as to whether this bill contains any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

VIII. FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

IX. STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII, the general performance goal or objective of this legislation is to direct the Consumer Product Safety Commission to explore the use of artificial intelligence in support of the CPSC's mission to require the Department of Commerce and the Federal Trade Commission to study and report on the use of blockchain technology and digital tokens.

X. DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of rule XIII, no provision of H.R. 8128 is known to be duplicative of another Federal program, including any program that was included in a report to Congress pursuant to section 21 of Public Law 111–139 or the most recent Catalog of Federal Domestic Assistance.

XI. COMMITTEE COST ESTIMATE

Pursuant to clause 3(d)(1) of rule XIII, the Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

XII. EARMARKS, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS

Pursuant to clause 9(e), 9(f), and 9(g) of rule XXI, the Committee finds that H.R. 8128 contains no earmarks, limited tax benefits, or limited tariff benefits.

XIII. ADVISORY COMMITTEE STATEMENT

No advisory committee within the meaning of section 5(b) of the Federal Advisory Committee Act was created by this legislation.

XIV. APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

XV. SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title; Table of contents

Section 1(a) designates that the short title may be cited as the "Consumer Safety Technology Act". Section 1(b) provides the table of contents.

Sec. 2. Definitions

Section 2 defines terms used throughout the bill, including the term "consumer product".

TITLE I—ARTIFICIAL INTELLIGENCE AND CONSUMER PRODUCT SAFETY

Sec. 101. Short title

Section 101 designates that this title may be cited as the "AI for Consumer Product Safety Act".

Sec. 102. Pilot program for use of artificial intelligence by Consumer Product Safety Commission

Subsection (a) specifies that not later than one year after the date of enactment, the CPSC shall establish a pilot program to explore the use of artificial intelligence in support of the CPSC's consumer product safety mission.

Subsection (b) further specifies that the pilot program shall be used for at least one of the following purposes: (1) tracking injury trends; (2) identifying consumer product hazards; (3) monitoring the retail marketplace for the sale of recalled consumer products; or (4) identifying unsafe imported consumer products. This subsection also requires the CPSC to consult with certain stakeholders in conducting the pilot program, including cybersecurity experts,

the retail industry, consumer product manufacturers, and consumer product safety organizations.

Subsection (c) requires the CPSC, not later than 180 days after the conclusion of the pilot program, to issue a report on the findings and success of the pilot program.

TITLE II—BLOCKCHAIN TECHNOLOGY INNOVATION

[This title incorporates text based on H.R. 8153, sponsored by Representatives Darren Soto (D–FL), Brett Guthrie (R–KY), and Doris Matsui (D–CA).]

Sec. 201. Short title

Section 201 designates that this title may be cited as the "Blockchain Innovation Act".

Sec. 202. *Study on blockchain technology and its use in consumer protection*

Subsection (a) requires the DOC, in consultation with the FTC, to conduct a study on current and potential use of blockchain technology in commerce and the potential benefits of blockchain technology for limiting fraud and other unfair and deceptive acts and practices. This subsection further requires the DOC to provide opportunity for public comment.

Subsection (b) requires the DOC, not later than six months after the completion of the study, to issue a report on the results of the study.

TITLE III—DIGITAL TOKEN TAXONOMY

[This title incorporates text based on H.R. 2154, sponsored by Representatives Soto (D–FL) and Warren Davidson (R–OH).]

Sec. 301. Short title

Section 301 designates that this title may be cited as the "Digital Taxonomy Act".

Sec. 302. Findings

This section lists the summarized findings of Congress regarding digital tokens, including a finding by Congress that the FTC should ensure staff have appropriate training and resources to identify and pursue cases against unfair or deceptive acts or practices involving digital tokens.

Sec. 303. *Reports on unfair or deceptive acts or practices in transactions relating to digital tokens*

This section requires the FTC, not later than one year after the date of enactment, to issue a report on (1) the FTC's actions regarding digital tokens; (2) any other efforts by the FTC to prevent unfair or deceptive acts or practices relating to digital tokens; and (3) any recommendations by the FTC for legislation that would improve the ability of the FTC to further protect consumers in the digital token marketplace and to promote competition and innovation in the global digital token sector.

XVI. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

No changes in existing law were made by H.R. 8128, as reported.

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