

SECURE EQUIPMENT ACT OF 2021

OCTOBER 19, 2021.—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. 3919]

The Committee on Energy and Commerce, to whom was referred the bill (H.R. 3919) to ensure that the Federal Communications Commission does not approve radio frequency devices that pose a national security risk, 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.

This Act may be cited as the “Secure Equipment Act of 2021”.

SEC. 2. UPDATES TO EQUIPMENT AUTHORIZATION PROCESS OF FEDERAL COMMUNICATIONS COMMISSION.

(a) **RULEMAKING.**—

(1) **IN GENERAL.**—Not later than 1 year after the date of the enactment of this Act, the Commission shall adopt rules in the proceeding initiated in the Notice of Proposed Rulemaking in the matter of Protecting Against National Security Threats to the Communications Supply Chain through the Equipment Authorization Program (ET Docket No. 21–232; FCC 21–73; adopted June 17, 2021), in accordance with paragraph (2), to update the equipment authorization procedures of the Commission.

(2) **UPDATES REQUIRED.**—In the rules adopted under paragraph (1), the Commission shall clarify that the Commission will no longer review or approve any application for equipment authorization for equipment that is on the list of covered communications equipment or services published by the Commission under section 2(a) of the Secure and Trusted Communications Networks Act of 2019 (47 U.S.C. 1601(a)).

(3) **APPLICABILITY.**—

(A) **IN GENERAL.**—In the rules adopted under paragraph (1), the Commission may not provide for review or revocation of any equipment authorization granted before the date on which such rules are adopted on the basis of the equipment being on the list described in paragraph (2).

(B) **RULE OF CONSTRUCTION.**—Nothing in this section may be construed to prohibit the Commission, other than in the rules adopted under paragraph (1), from—

(i) examining the necessity of review or revocation of any equipment authorization on the basis of the equipment being on the list described in paragraph (2); or

(ii) adopting rules providing for any such review or revocation.

(b) **DEFINITION.**—In this section, the term “Commission” means the Federal Communications Commission.

Amend the title so as to read:

A bill to ensure that the Federal Communications Commission prohibits authorization of radio frequency devices that pose a national security risk.

I. PURPOSE AND SUMMARY

H.R. 3919, the “Secure Equipment Act of 2021,” requires the Federal Communications Commission (FCC or Commission) to adopt rules to update the equipment authorization procedures of the Commission to ensure only trusted radio frequency devices are authorized for use in the United States.

II. BACKGROUND AND NEED FOR LEGISLATION

In 2019, Congress passed the Secure and Trusted Communications Networks Act, which took steps to remove harmful equipment in our nation’s communications networks by instructing the FCC to publish a list of communications equipment and services that pose a national security threat. The law prohibits the use of certain federal funds provided by the Commission to purchase equipment and services from companies on that list. The legislation also authorized, and Congress subsequently appropriated, funding for certain United States telecommunications carriers to remove and replace prohibited equipment and services from their networks.

While the Secure and Trusted Communications Networks Act took important steps to remove compromised equipment from American networks, the law did not cover equipment that is purchased using private funds (i.e., without the use of federal funds provided by the Commission) and poses a similar national security threat as is conceived under the Act. There is a need to address the national security risks posed by such privately purchased

equipment that transmits over radio frequencies, which federal law requires to be licensed by the FCC.

III. COMMITTEE HEARINGS

For the purposes of clause 3(c) of rule XIII of the Rules of the House of Representatives, the following hearings were used to develop or consider H.R. 3919:

The Subcommittee on Communications and Technology held a hearing on April 21, 2021, entitled “Leading the Wireless Future: Securing American Network Technology.” The Subcommittee received testimony from the following witnesses:

- John Baker, Senior Vice President, Business Development, Mavenir;
- John Mezzalingua, Chief Executive Officer, JMA Wireless;
- Tim Donovan, SVP, Legislative Affairs, Competitive Carriers Association;
- Tareq Amin, EVP and Group Chief Technology Officer, Rakuten Mobile; and
- Diane Rinaldo, Executive Director, Open RAN Policy Coalition.

The Subcommittee on Communications and Technology held a legislative hearing on June 30, 2021, entitled “A Safe Wireless Future: Securing our Networks and Supply Chains.” The Subcommittee received testimony from the following witnesses:

- Dileep Srihari, Senior Policy Counsel, Access Partnership;
- Dean Brenner, SVP, Spectrum Strategy & Tech Policy, Qualcomm Incorporated;
- Jason Boswell, Head of Security, Network Product Solutions, N.A., Ericsson; and
- Clete Johnson, Senior Fellow, Strategic Technologies Program, Center for Strategic and International Studies.

IV. COMMITTEE CONSIDERATION

Representatives Steve Scalise (R–LA) and Anna G. Eshoo (D–CA) introduced H.R. 3919, the “Secure Equipment Act of 2021,” on June 15, 2021, which was referred to the Committee on Energy and Commerce. Subsequently, on June 16, 2021, H.R. 3919 was referred to the Subcommittee on Communications and Technology. A legislative hearing was held on the bill on June 30, 2021.

On July 20, 2021, the Subcommittee on Communications and Technology was discharged from further consideration of the bill. On July 21, 2021, the full Committee met in open markup session, pursuant to notice, to consider H.R. 3919 and 23 other bills. During consideration of the bill, an amendment in the nature of a substitute (AINS) offered by Representative Scalise was agreed to by a voice vote. Upon conclusion of consideration of the bill, the full Committee agreed to a motion on final passage offered by Representative Pallone (D–NJ), Chairman of the Committee, to order H.R. 3919 reported favorably to the House, amended, by a voice vote.

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. 3919, including a motion by Mr. Pallone ordering H.R. 3919 favorably reported to the House, amended.

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 prohibit the Federal Communications Commission from reviewing applications or issuing new radio frequency equipment licenses to companies on the FCC's list of covered communications equipment or services published pursuant to section 2(a) of the Secure and Trusted Communications Networks Act.

X. DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of rule XIII, no provision of H.R. 3919 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. 3919 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

Section 1 designates that the short title may be cited as the “Secure Equipment Act of 2021.”

Sec. 2. Updates to equipment authorization process of Federal Communications Commission

This section requires the Federal Communications Commission to conclude a rulemaking proceeding to update its equipment authorization procedures and clarify that the Commission will no longer review or approve any application for equipment authorization for equipment that appears on the list of covered communications equipment or services published by the Commission under section 2(a) of the Secure and Trusted Communications Networks Act of 2019. The legislation prohibits the FCC from revoking previously issued authorizations as part of the relevant rulemaking proceeding, but does not prohibit the FCC from acting in a separate proceeding to take such action.

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

There are no changes to existing law made by the bill H.R. 3919.