

CHINESE-OWNED APPLICATIONS USING THE
 INFORMATION OF OUR NATION ACT OF 2023

MAY 31, 2024.—Committed to the Committee of the Whole House on the State of
 the Union and ordered to be printed

Mrs. RODGERS of Washington, from the Committee on Energy and
 Commerce, submitted the following

R E P O R T

[To accompany H.R. 750]

[Including cost estimate of the Congressional Budget Office]

The Committee on Energy and Commerce, to whom was referred the bill (H.R. 750) to require any person that sells or distributes a mobile application that the Federal Government has prohibited for Government-owned devices to disclose that fact to any individual who downloads, updates, or otherwise uses such application, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

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The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Chinese-owned Applications Using The Information of Our Nation Act of 2023” or the “CAUTION Act of 2023”.

SEC. 2. DISCLOSURE REQUIREMENTS.

(a) **IN GENERAL.**—Any person that sells or distributes a covered application that the Federal Government has prohibited the use of for information technology and required to be removed from such information technology under the No TikTok on Government Devices Act (Public Law 117–328), before any individual downloads or updates the covered application, shall disclose, in a clear and conspicuous manner, that the use of the covered application is prohibited on Government-owned devices under law.

(b) **FALSE INFORMATION.**—It shall be unlawful for any person to knowingly provide false information with respect to the disclosure required under this section.

(c) **ENFORCEMENT.**—

(1) **UNFAIR AND DECEPTIVE ACTS OR PRACTICES.**—A violation of this section shall be treated as a violation of a rule defining an unfair or deceptive act or practice prescribed under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

(2) **POWERS OF THE FEDERAL TRADE COMMISSION.**—

(A) **IN GENERAL.**—The Federal Trade Commission shall enforce this section in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this section.

(B) **PRIVILEGES AND IMMUNITIES.**—Any person that violates this section shall be subject to the penalties, provided in the Federal Trade Commission Act (15 U.S.C. 41 et seq.).

(3) **AUTHORITY PRESERVED.**—Nothing in this section shall be construed to limit the authority of the Federal Trade Commission under any other provision of law.

(d) **EFFECTIVE DATE.**—This section shall take effect 180 days after the date of the enactment of this Act.

(e) **DEFINITIONS.**—In this section:

(1) **COVERED APPLICATION.**—The term “covered application” has the meaning given that term in section 102 of division R of the Consolidated Appropriations Act, 2023 (Public Law 117–328).

(2) **INDIVIDUAL.**—The term “individual” means a natural person residing in the United States.

(3) **INFORMATION TECHNOLOGY.**—The term “information technology” has the meaning given that term in section 102 of division R of the Consolidated Appropriations Act, 2023 (Public Law 117–328).

PURPOSE AND SUMMARY

H.R. 750, the “Chinese-owned applications Using The Information of Our Nation Act of 2023” or the “CAUTION Act” was introduced on February 2, 2023, by Representatives Cammack and Soto. H.R. 750 requires any person who sells or distributes a covered application that the Federal Government has (1) prohibited the use of for information technology and (2) required to be removed from such information technology to disclose that fact before any individual downloads or updates the covered application.

BACKGROUND AND NEED FOR LEGISLATION

Enacted into law on December 29, 2022, the Consolidated Appropriations Act, 2023 (Public Law 117–328) includes provisions to improve the security of government-owned devices. Specifically, the No TikTok on Government Devices Act (Public Law 117–328) requires the Director of the Office of Management and Budget, in consultation with the Administrator of General Services, the Director of the Cybersecurity and Infrastructure Security Agency, the

Director of National Intelligence, and the Secretary of Defense, and consistent with the information security requirements under subchapter II of chapter 35 of title 44, United States Code, to develop standards and guidelines for executive agencies requiring the removal of any covered application from information technology.

H.R. 750 requires any person who sells or distributes a covered application that the Federal Government has prohibited for Government-owned devices under Public Law 117–328 to disclose that fact in a clear and conspicuous manner to any individual who downloads or updates the application. In addition to the United States Federal Government, other governments around the world have prohibited the use of the application on government devices over concerns with how the application is tied to the Chinese Communist Party (CCP), their lax data security practices, and the ability of the CCP to obtain user information to prioritize and censor content in accordance with their totalitarian agenda. The bill will give Americans much deserved transparency into the Federal Government's concerns with downloading and using TikTok.

COMMITTEE ACTION

On February 1, 2023, the Subcommittee on Innovation, Data, and Commerce held a hearing on the fight for global leadership in the age of emerging technology. The title of the hearing was “Economic Danger Zone: How America Competes To Win The Future Versus China.” The Subcommittee received testimony from the following witnesses:

- Brandon Pugh, Policy Director and Resident Senior Fellow, R Street Institute;
- Jeff Farrah, Executive Director, Autonomous Vehicle Industry Association (AVIA);
- Samm Sacks, Cyber Policy Fellow, International Security Program, New America; and
- Marc Jarsulic, Senior Fellow and Chief Economist, Center for American Progress.

On March 1, 2023, the Subcommittee on Innovation, Data, and Commerce held a hearing on the current digital ecosystem and the importance of enacting a comprehensive preemptive federal data privacy and security law. The title of the hearing was “Promoting U.S. Innovation And Individual Liberty Through A National Standard For Data Privacy.” The Subcommittee received testimony from the following witnesses:

- Alexandra Reeve Givens, President and CEO, Center for Democracy & Technology;
- Graham Mudd, Founder and Chief Product Officer, Anonym; and
- Jessica Rich, Of Counsel and Senior Policy Advisor for Consumer Protection, Kelley Drye & Warren, LLP.

On February 7, 2023, the Subcommittee on Innovation, Data, and Commerce met in open markup session and forwarded H.R. 750, as amended, to the full Committee by a voice vote.

On March 9, 2023, the full Committee on Energy and Commerce met in open markup session and ordered H.R. 750, as amended, favorably to the House by a recorded vote of 47 yeas and 1 nay.

COMMITTEE VOTES

Clause 3(b) of rule XIII requires the Committee to list the record votes on the motion to report legislation and amendments thereto. The following reflects the record votes taken during the Committee consideration:

**COMMITTEE ON ENERGY AND COMMERCE
118TH CONGRESS
ROLL CALL VOTE # 1**

BILL: H.R. 750, the “Chinese-owned applications Using The Information of Our Nation Act of 2023” or the “CAUTION Act”

AMENDMENT: A motion by Mrs. Rodgers to order H.R. 750 favorably reported to the House, as amended (Final Passage).

DISPOSITION: AGREED TO, by a roll call vote of 47 yeas and 1 nay.

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Rep. Rodgers	X			Rep. Pallone	X		
Rep. Burgess	X			Rep. Eshoo	X		
Rep. Latta	X			Rep. DeGette	X		
Rep. Guthrie	X			Rep. Schakowsky	X		
Rep. Griffith	X			Rep. Matsui	X		
Rep. Bilirakis	X			Rep. Castor	X		
Rep. Johnson	X			Rep. Sarbanes	X		
Rep. Bucshon	X			Rep. Tonko	X		
Rep. Hudson	X			Rep. Clarke	X		
Rep. Walberg	X			Rep. Cárdenas	X		
Rep. Carter	X			Rep. Ruiz	X		
Rep. Duncan	X			Rep. Peters	X		
Rep. Palmer				Rep. Dingell			
Rep. Dunn				Rep. Veasey	X		
Rep. Curtis	X			Rep. Kuster	X		
Rep. Lesko	X			Rep. Kelly	X		
Rep. Pence	X			Rep. Barragán	X		
Rep. Crenshaw	X			Rep. Blunt Rochester	X		
Rep. Joyce	X			Rep. Soto	X		
Rep. Armstrong	X			Rep. Craig	X		
Rep. Weber	X			Rep. Schrier			
Rep. Allen	X			Rep. Trahan	X		
Rep. Balderson	X			Rep. Fletcher	X		
Rep. Fulcher	X						
Rep. Pfluger	X						
Rep. Harshbarger	X						
Rep. Miller-Meeks	X						
Rep. Cammack	X						
Rep. Obernolte		X					

03/09/2023

OVERSIGHT FINDINGS AND RECOMMENDATIONS

Pursuant to clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII, the Committee held hearings and made findings that are reflected in this report.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

Pursuant to clause 3(c)(2) of rule XIII, the Committee finds that H.R. 750 would result in no new or increased budget authority, entitlement authority, or tax expenditures or revenues.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

Pursuant to clause 3(c)(3) of rule XIII, the following is the cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974:

H.R. 750, CAUTION Act of 2023			
As ordered reported by the House Committee on Energy and Commerce on March 9, 2023			
By Fiscal Year, Millions of Dollars	2023	2023-2028	2023-2033
Direct Spending (Outlays)	0	0	0
Revenues	0	*	*
Increase or Decrease (-) in the Deficit	0	*	*
Spending Subject to Appropriation (Outlays)	*	3	not estimated
Increases <i>net direct spending</i> in any of the four consecutive 10-year periods beginning in 2034?	No	Statutory pay-as-you-go procedures apply?	Yes
Increases <i>on-budget deficits</i> in any of the four consecutive 10-year periods beginning in 2034?	No	Mandate Effects	
		Contains intergovernmental mandate?	No
		Contains private-sector mandate?	Yes, Under Threshold
* = between -\$500,000 and \$500,000.			

H.R. 750 would require entities that sell or distribute the application TikTok, or any successor application or service distributed by ByteDance Limited, to disclose to consumers that current law prohibits its use on government-owned devices. The bill would direct the Federal Trade Commission (FTC) to enforce that requirement.

Based on information from the FTC, CBO expects the commission would need one employee in 2023 and 2024, at an average annual cost of \$225,000, to issue guidance to clarify the content of the disclosures and which entities would need to make the disclosures. In each year after 2024, CBO estimates that the agency would need three employees to enforce potential violations. On that basis and accounting for anticipated inflation, CBO estimates that implementing H.R. 750 would cost \$3 million over the 2023–2028 period; any spending would be subject to the availability of appropriated funds.

The bill would authorize the FTC to collect civil monetary penalties, which are recorded as revenues, from businesses found in violation of the act, along with pursuing other remedies. The extent to which businesses would violate the new rules is uncertain. Fur-

thermore, if a business does violate the new rules and the FTC chooses to proceed with an enforcement action, the extent to which the agency pursues civil penalties instead of other remedies is also uncertain, as is the length of time it would take to resolve a case. On that basis, CBO estimates that any additional revenues collected over the next decade would not be significant.

By requiring entities that sell or distribute TikTok, or any successor application or service developed by ByteDance Limited, to disclose to consumers that such applications are prohibited on government-owned devices, the bill would impose a private-sector mandate as defined by the Unfunded Mandates Reform Act (UMRA). Because the mandated entities could use an established disclosure process to comply with the bill's requirements, the cost of the mandate would be small and would not exceed the threshold established in UMRA (\$198 million in 2023, adjusted annually for inflation).

H.R. 750 contains no intergovernmental mandates as defined in UMRA.

The CBO staff contacts for this estimate are David Hughes (for federal costs) and Rachel Austin (for mandates). The estimate was reviewed by H. Samuel Papenfuss, Deputy Director of Budget Analysis.

PHILLIP L. SWAGEL,
Director, Congressional Budget Office.

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.

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 increase the public's awareness that the Federal Government has prohibited the use of TikTok on Government-owned devices.

DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of rule XIII, no provision of H.R. 750 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.

RELATED COMMITTEE AND SUBCOMMITTEE HEARINGS

Pursuant to clause 3(c)(6) of rule XIII, the following related hearings were used to develop or consider H.R. 750:

- On February 1, 2023, the Subcommittee on Innovation, Data, and Commerce held a hearing on the fight for global leadership in the age of emerging technology. The title of the hearing was "Economic Danger Zone: How America Competes To Win The Future Versus China." The Subcommittee received testimony from the following witnesses:
 - Brandon Pugh, Policy Director and Resident Senior Fellow, R Street Institute;

- Jeff Farrah, Executive Director, Autonomous Vehicle Industry Association (AVIA);
- Samm Sacks, Cyber Policy Fellow, International Security Program, New America; and
- Marc Jarsulic, Senior Fellow and Chief Economist, Center for American Progress.
- On March 1, 2023, the Subcommittee on Innovation, Data, and Commerce held a hearing on the current digital ecosystem and the importance of enacting a comprehensive preemptive federal data privacy and security law. The title of the hearing was “Promoting U.S. Innovation And Individual Liberty Through A National Standard For Data Privacy.” The Subcommittee received testimony from the following witnesses:
 - Alexandra Reeve Givens, President and CEO, Center for Democracy & Technology;
 - Graham Mudd, Founder and Chief Product Officer, Anonym; and
 - Jessica Rich, Of Counsel and Senior Policy Advisor for Consumer Protection, Kelley Drye & Warren, LLP.

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.

EARMARK, 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. 750 contains no earmarks, limited tax benefits, or limited tariff benefits.

ADVISORY COMMITTEE STATEMENT

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

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.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title

Section 1 provides that the Act may be cited title as the “Chinese-owned Applications Using The Information of Our Nation Act of 2023” or the “CAUTION Act.”

Section 2. Disclosure requirements

Section 2 requires that any person who sells or distributes a covered application that the Federal Government has prohibited the use of for information technology and required to be removed from such information technology under the No TikTok on Government Devices Act (Public Law 117–328), to disclose that fact in a clear and conspicuous manner to any individual before they download or

update the application. This section notes that it would be unlawful for any person knowingly to provide false information with respect to the disclosure required under this section.

Section 2 also provides the Federal Trade Commission with enforcement authorities and establishes that a violation of the section shall be treated as a violation of a rule defining an unfair or deceptive act or practice.

Section 2 establishes the effective date is designated as 180 days after the date of the enactment of this Act.

Finally, the section defines terms used in the Act.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

This legislation does not amend any existing Federal statute.