

Calendar No. 737

118TH CONGRESS }
2d Session

SENATE

{ REPORT
118-317

SECURING AMERICA'S FEDERAL EQUIPMENT
IN (SAFE) SUPPLY CHAINS ACT

R E P O R T

OF THE

COMMITTEE ON HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

TO ACCOMPANY

S. 4651

TO REQUIRE AGENCIES TO USE INFORMATION AND
COMMUNICATIONS TECHNOLOGY PRODUCTS OBTAINED
FROM ORIGINAL EQUIPMENT MANUFACTURERS OR
AUTHORIZED RESELLERS, AND FOR OTHER PURPOSES



DECEMBER 19 (legislative day, DECEMBER 16), 2024.—Ordered to be
printed

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**SECURING AMERICA’S FEDERAL EQUIPMENT IN (SAFE)
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DECEMBER 19 (legislative day, DECEMBER 16), 2024.—Ordered to be printed

Mr. PETERS, from the Committee on Homeland Security and
Governmental Affairs, submitted the following

R E P O R T

[To accompany S. 4651]

[Including cost estimate of the Congressional Budget Office]

The Committee on Homeland Security and Governmental Affairs, to which was referred the bill (S. 4651) to require agencies to use information and communications technology products obtained from original equipment manufacturers or authorized resellers, and for other purposes, having considered the same, reports favorably thereon with an amendment in the nature of a substitute and recommends that the bill, as amended, do pass.

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I. PURPOSE AND SUMMARY

S. 4651, the *Securing America’s Federal Equipment Supply Chains Act or SAFE Supply Chains Act*, prohibits agencies from using information and communications technology (ICT) products procured or obtained from entities other than original equipment manufacturers (OEMs) or authorized resellers. Ensuring the federal government only purchases ICT products from OEMs or their

authorized resellers will help protect government networks from increased cyberattacks and unsafe supply chains.

II. BACKGROUND AND NEED FOR THE LEGISLATION

Cyberattacks on federal agencies are increasing, with the federal government reporting more than 32,000 cybersecurity incidents for 2023. This represents approximately a 5% increase over the previous year.¹ Due to increased cyberattacks on federal agencies and possibly unsafe supply chains, it is vital that when purchasing ICT products, the federal government only purchase these electronics from OEMs or their authorized resellers.² Unauthorized sellers of ICT may circumvent trusted supply chains and provide counterfeit technology that could harm security networks within the federal government. Counterfeit devices are often older and may contain unsafe and unreliable components, causing technology to malfunction or completely fail, leading to significant damage to networks and operations.³ For example, in May of 2024, the Department of Justice announced that a Florida resident had been sentenced to over six years in prison for selling hundreds of millions of dollars' worth of counterfeit, low quality electronics trafficked from China to the United States. Many of these counterfeit devices ended up in U.S. hospitals, schools, and highly sensitive military systems, including at U.S. military bases, in fighter jets, and other military aircraft.⁴

S. 4651, the *SAFE Supply Chains Act*, will ensure that federal agency officials purchase ICT products from trusted OEMs or authorized resellers, to protect cybersecurity and prevent a breach in national security.

III. LEGISLATIVE HISTORY

Senator John Cornyn (R–TX) introduced S. 4651, the *SAFE Supply Chains Act*, on July 10, 2024, with Senator Gary Peters (D–MI) as the original co-sponsor. Senator Jon Ossoff (D–GA) joined as co-sponsor on July 31, 2024. The bill was referred to the Committee on Homeland Security and Governmental Affairs.

The Committee considered S. 4651 at a business meeting on July 31, 2024. At the business meeting, Senator Peters offered a substitute amendment to the bill, as well as a modification to the substitute amendment. The Peters substitute amendment, as modified, revised waiver authority for agencies, added a requirement for agencies to establish guidance for providing technical assistance to ineligible entities, revised reporting requirements for agencies, and added a provision that no new funds are authorized to be appropriated for the purpose of carrying out the bill once enacted.

¹ Statista, *Number of cyber security incident reports by federal agencies in the United States from FY 2006 to 2022* (www.statista.com/statistics/677015/number-cyber-incident-reported-usa-gov/) (accessed Dec. 9, 2024).

² The Department of Defense, *Securing Defense-Critical Supply Chains: An action plan developed in response to President Biden's Executive Order 14017* (Feb. 2022) (media.defense.gov/2022/Feb/24/2002944158/-1/-1/1/DOD-EO-14017-REPORT-SECURING-DEFENSE-CRITICAL-SUPPLY-CHAINS.PDF).

³ Senate Armed Services Committee Report on Counterfeit Components in the DoD Supply Chain, # 112–167 (May 21, 2012).

⁴ *Leader of Massive Scheme to Traffic in Fraudulent and Counterfeit Cisco Networking Equipment Sentenced to Prison* (May 2, 2024) (www.justice.gov/opa/pr/leader-massive-scheme-traffic-fraudulent-and-counterfeit-cisco-networking-equipment).

The modification to the Peters substitute amendment and the substitute amendment, as modified, were adopted by unanimous consent, with Senators Peters, Carper, Hassan, Sinema, Rosen, Ossoff, Blumenthal, Butler, Paul, Lankford, and Scott present. The bill, as amended by the Peters substitute amendment, as modified, was ordered reported favorably by roll call vote of 10 yeas to 1 nay, with Senator Peters, Carper, Hassan, Sinema, Rosen, Ossoff, Blumenthal, Butler, Lankford, and Scott voting in the affirmative, and Senator Paul voting in the negative. Senators Johnson, Romney, Hawley, and Marshall voted yea by proxy, for the record only.

IV. SECTION-BY-SECTION ANALYSIS OF THE BILL, AS REPORTED

Section 1. Short title

This section establishes the short title of the bill as “Securing America’s Federal Equipment Supply Chains Act” or the “SAFE Supply Chains Act.”

Sec. 2. Agency use of IT products

Subsection (a) defines “agency,” “appropriate congressional committees,” “authorized reseller,” “covered product,” “end-use product,” “information and communications technology,” and “original equipment manufacturer.”

Subsection (b) prohibits federal agencies from procuring or obtaining, renewing a contract to procure or obtain, or using a covered product that is procured from an entity other than an original equipment manufacturer or an authorized reseller.

Subsection (c) authorizes federal agency heads to waive the prohibition in subsection (b) with written notice to the Director of the Office of Management and Budget if the agency head determines that procuring, obtaining, or using the covered product is necessary for scientific research or to avoid jeopardizing the performance of mission critical functions.

Subsection (d) requires the head of each federal agency to establish procurement guidance to assist entities that are not eligible for procurement of covered products due to the prohibition under section (b) with the process of becoming an authorized reseller.

Subsection (e) requires the Director of the Office of Management and Budget to submit to Congress a report that provides information on the waivers granted under subsection (c), including the number and types of covered products, the legal authority under which each waiver was granted, and any actions taken by the head of an agency to reduce the number of waivers issued. This report must be submitted within one year of the bill’s enactment and annually thereafter for six years.

Subsection (f) states that no additional funds are authorized to be appropriated for the purpose of carrying out the bill.

Subsection (g) sets an effective date for this section of one year after the bill’s enactment.

V. EVALUATION OF REGULATORY IMPACT

Pursuant to the requirements of paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee has considered the regulatory impact of this bill and determined that the bill will have no regulatory impact within the meaning of the rules. The

Committee agrees with the Congressional Budget Office's statement that the bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

VI. CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

S. 4651, SAFE Supply Chains Act			
As ordered reported by the Senate Committee on Homeland Security and Governmental Affairs on July 31, 2024			
By Fiscal Year, Millions of Dollars	2025	2025-2029	2025-2034
Direct Spending (Outlays)	*	*	*
Revenues	0	0	0
Increase or Decrease (-) in the Deficit	*	*	*
Spending Subject to Appropriation (Outlays)	*	*	not estimated
Increases <i>net direct spending</i> in any of the four consecutive 10-year periods beginning in 2035?	No	Statutory pay-as-you-go procedures apply?	Yes
		Mandate Effects	
Increases <i>on-budget deficits</i> in any of the four consecutive 10-year periods beginning in 2035?	No	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	No
* = between -\$500,000 and \$500,000.			

S. 4651 would stipulate that federal agencies can only procure and use information and communication technology from original manufacturers or authorized resellers. Under the bill, agencies would need to develop guidance to help entities that would otherwise be ineligible become authorized resellers. The bill would allow the Office of Management and Budget to waive that procurement requirement but would require it to report annually to the Congress on any waivers granted.

CBO is unaware of any comprehensive information about federal agencies' purchases from unauthorized dealers (or "grey-market sellers") who sell products outside of the manufacturer's intended distribution channels. In addition, CBO is not aware of any instances of agencies intentionally buying from such sellers. Accordingly, CBO expects that agencies would incur insignificant administrative cost to comply with the new requirement. On that basis, CBO estimates that implementing S. 4651 would cost less than \$500,000 over the 2025–2029 period. Any related spending would be subject to the availability of appropriated funds.

Enacting S. 4651 could affect direct spending by some agencies that are allowed to use fees, receipts from the sale of goods, and other collections to cover operating costs. CBO estimates that any net changes in direct spending by those agencies would be negligible because most of them can adjust amounts collected to reflect changes in operating costs.

The CBO staff contact for this estimate is Matthew Pickford. The estimate was reviewed by H. Samuel Papenfuss, Deputy Director of Budget Analysis.

PHILLIP L. SWAGEL,
Director, Congressional Budget Office.

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

This legislation would make no change in existing law, within the meaning of clauses (a) and (b) of subparagraph 12 of rule XXVI of the Standing Rules of the Senate, because this legislation would not repeal or amend any provision of current law.