

116TH CONGRESS  
2D SESSION

# H. R. 360

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IN THE SENATE OF THE UNITED STATES

SEPTEMBER 30 (legislative day, SEPTEMBER 29), 2020

Received; read twice and referred to the Committee on Energy and Natural  
Resources

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## AN ACT

To require the Secretary of Energy to establish a voluntary  
Cyber Sense program to test the cybersecurity of prod-  
ucts and technologies intended for use in the bulk-power  
system, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2       This Act may be cited as the “Cyber Sense Act of  
3 2020”.

4 **SEC. 2. CYBER SENSE.**

5       (a) IN GENERAL.—The Secretary of Energy, in co-  
6 ordination with relevant Federal agencies, shall establish  
7 a voluntary Cyber Sense program to test the cybersecurity  
8 of products and technologies intended for use in the bulk-  
9 power system, as defined in section 215(a) of the Federal  
10 Power Act (16 U.S.C. 824o(a)).

11       (b) PROGRAM REQUIREMENTS.—In carrying out sub-  
12 section (a), the Secretary of Energy shall—

13           (1) establish a testing process under the Cyber  
14 Sense program to test the cybersecurity of products  
15 and technologies intended for use in the bulk-power  
16 system, including products relating to industrial con-  
17 trol systems and operational technologies, such as  
18 supervisory control and data acquisition systems;

19           (2) for products and technologies tested under  
20 the Cyber Sense program, establish and maintain cy-  
21 bersecurity vulnerability reporting processes and a  
22 related database;

23           (3) provide technical assistance to electric utili-  
24 ties, product manufacturers, and other electricity  
25 sector stakeholders to develop solutions to mitigate  
26 identified cybersecurity vulnerabilities in products

1 and technologies tested under the Cyber Sense pro-  
2 gram;

3 (4) biennially review products and technologies  
4 tested under the Cyber Sense program for cyberse-  
5 curity vulnerabilities and provide analysis with re-  
6 spect to how such products and technologies respond  
7 to and mitigate cyber threats;

8 (5) develop guidance, that is informed by anal-  
9 ysis and testing results under the Cyber Sense pro-  
10 gram, for electric utilities for procurement of prod-  
11 ucts and technologies;

12 (6) provide reasonable notice to the public, and  
13 solicit comments from the public, prior to estab-  
14 lishing or revising the testing process under the  
15 Cyber Sense program;

16 (7) oversee testing of products and technologies  
17 under the Cyber Sense program; and

18 (8) consider incentives to encourage the use of  
19 analysis and results of testing under the Cyber  
20 Sense program in the design of products and tech-  
21 nologies for use in the bulk-power system.

22 (c) DISCLOSURE OF INFORMATION.—Any cybersecu-  
23 rity vulnerability reported pursuant to a process estab-  
24 lished under subsection (b)(2), the disclosure of which the  
25 Secretary of Energy reasonably foresees would cause harm

1 to critical electric infrastructure (as defined in section  
2 215A of the Federal Power Act), shall be deemed to be  
3 critical electric infrastructure information for purposes of  
4 section 215A(d) of the Federal Power Act.

5 (d) FEDERAL GOVERNMENT LIABILITY.—Nothing in  
6 this section shall be construed to authorize the commence-  
7 ment of an action against the United States Government  
8 with respect to the testing of a product or technology  
9 under the Cyber Sense program.

Passed the House of Representatives September 29,  
2020.

Attest: CHERYL L. JOHNSON,  
*Clerk.*