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(Original Signature of Member)

118TH CONGRESS  
2D SESSION

**H. R.** \_\_\_\_\_

To require agencies to use information and communications technology products obtained from original equipment manufacturers or authorized resellers, and for other purposes.

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IN THE HOUSE OF REPRESENTATIVES

Mr. FALLON introduced the following bill; which was referred to the Committee on \_\_\_\_\_

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**A BILL**

To require agencies to use information and communications technology products obtained from original equipment manufacturers or authorized resellers, 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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Securing America’s  
5 Federal Equipment Supply Chains Act” or the “SAFE  
6 Supply Chains Act”.

1 **SEC. 2. AGENCY USE OF IT PRODUCTS.**

2 (a) DEFINITIONS.—In this section:

3 (1) AGENCY.—The term “agency” has the  
4 meaning given the term in section 3502 of title 44,  
5 United States Code.

6 (2) APPROPRIATE CONGRESSIONAL COMMIT-  
7 TEES.—The term “appropriate congressional com-  
8 mittees” means the Committee on Homeland Secu-  
9 rity and Governmental Affairs of the Senate and the  
10 Committee on Oversight and Accountability of the  
11 House of Representatives.

12 (3) AUTHORIZED RESELLER.—The term “au-  
13 thorized reseller” means a reseller, after market  
14 manufacturer, supplier, or distributor of a covered  
15 product with a direct or prime contractual arrange-  
16 ment with, or the express written authority of, the  
17 original equipment manufacturer of the covered  
18 product to manufacture, buy, stock, repackage, sell,  
19 resell, repair, service, otherwise support, or dis-  
20 tribute the covered product.

21 (4) COVERED PRODUCT.—The term “covered  
22 product”—

23 (A) means an information and communica-  
24 tions technology end-use hardware product or  
25 component, including software and firmware

1           that comprise the end-use hardware product or  
2           component; and

3                   (B) does not include—

4                           (i) other software; or

5                           (ii) an end-use hardware product—

6                                   (I) in which there is embedded  
7                                   information and communications tech-  
8                                   nology; and

9                                   (II) the principal function of  
10                                   which is not the creation, manipula-  
11                                   tion, storage, display, receipt, or  
12                                   transmission of electronic data and in-  
13                                   formation.

14                   (5) END-USE PRODUCT.—The term “end-use  
15                   product” means a product ready for use by the  
16                   maintainer, integrator, or end user of the product.

17                   (6) INFORMATION AND COMMUNICATIONS  
18                   TECHNOLOGY.—The term “information and commu-  
19                   nications technology”—

20                           (A) has the meaning given the term in sec-  
21                           tion 4713(k) of title 41, United States Code;  
22                           and

23                           (B) includes information and communica-  
24                           tions technologies covered by definitions con-  
25                           tained in the Federal Acquisition Regulation,

1 including definitions added after the date of the  
2 enactment of this Act by the Federal Acquisi-  
3 tion Regulatory Council pursuant to notice and  
4 comment.

5 (7) ORIGINAL EQUIPMENT MANUFACTURER.—

6 The term “original equipment manufacturer” means  
7 a company that manufactures a covered product  
8 that the company—

9 (A) designed from self-sourced or pur-  
10 chased components; and

11 (B) sells under the name of the company.

12 (b) PROHIBITION ON PROCUREMENT AND USE.—

13 Subject to subsection (c) and notwithstanding sections  
14 1905 through 1907 of title 41, United States Code, the  
15 head of an agency may not procure or obtain, renew a  
16 contract to procure or obtain, or use a covered product  
17 that is procured from an entity other than—

18 (1) an original equipment manufacturer; or

19 (2) an authorized reseller.

20 (c) WAIVER.—

21 (1) IN GENERAL.—Upon written notice to the  
22 Director of the Office of Management and Budget,  
23 the head of an agency may waive the prohibition  
24 under subsection (b) with respect to a covered prod-  
25 uct if the head of the agency determines that pro-

1 curing, obtaining, or using the covered product is  
2 necessary—

3 (A) for the purpose of scientifically valid  
4 research (as defined in section 102 the Edu-  
5 cation Sciences Reform Act of 2002 (20 U.S.C.  
6 9501)); or

7 (B) to avoid jeopardizing the performance  
8 of mission critical functions.

9 (2) NOTICE.—The notice described in para-  
10 graph (1)—

11 (A) shall—

12 (i) specify, with respect to the waiver  
13 under paragraph (1)—

14 (I) the justification for the waiv-  
15 er;

16 (II) any security mitigations that  
17 have been implemented; and

18 (III) with respect to a waiver  
19 that necessitates a security mitigation,  
20 the plan of action and milestones to  
21 avoid future waivers for subsequent  
22 similar purchases; and

23 (ii) be submitted in an unclassified  
24 form; and

25 (B) may include a classified annex.

1           (3) DURATION.—With respect to a waiver for  
2           the purpose of research, as described in paragraph  
3           (1)(A), the waiver shall be effective for the duration  
4           of the research identified in the waiver.

5           (d) VENDOR TECHNICAL ASSISTANCE.—The head of  
6           each agency shall establish procurement guidance to pro-  
7           vide assistance to entities that are not eligible for procure-  
8           ments of covered products due to the prohibition under  
9           subsection (b) on the process of becoming an authorized  
10          reseller for covered products.

11          (e) REPORTS TO CONGRESS.—

12           (1) IN GENERAL.—Not later than 1 year after  
13          the date of enactment of this Act, and annually  
14          thereafter until the date that is 6 years after the  
15          date of enactment of this Act, the Director of the  
16          Office of Management and Budget shall submit to  
17          the appropriate congressional committees a report  
18          that provides—

19           (A) the number and types of covered prod-  
20          ucts for which a waiver under subsection (e)(1)  
21          was granted during the 1-year period preceding  
22          the date of the submission of the report;

23           (B) the legal authority under which each  
24          waiver described in subparagraph (A) was  
25          granted, such as whether the waiver was grant-

1 ed pursuant to subparagraph (A) or (B) of sub-  
2 section (c)(1); and

3 (C) any action taken by the head of an  
4 agency to reduce the number of waivers issued  
5 by the agency under subsection (c)(1) with the  
6 goal of achieving full compliance with the prohi-  
7 bition under subsection (b).

8 (2) CLASSIFICATION OF REPORT.—Each report  
9 submitted under this subsection—

10 (A) shall be submitted in unclassified form;  
11 and

12 (B) may include a classified annex that  
13 contains the information described in paragraph  
14 (1)(B).

15 (f) NO NEW FUNDS.—No additional amounts are au-  
16 thorized to be appropriated for the purpose of carrying  
17 out this Act.

18 (g) EFFECTIVE DATE.—This section shall take effect  
19 on the date that is 1 year after the date of enactment  
20 of this Act.