

119TH CONGRESS
2D SESSION

S. _____

To amend the Export Control Reform Act of 2018 to provide for the security of information and communications technology and services supply chains, and for other purposes.

IN THE SENATE OF THE UNITED STATES

_____ (legislative day, _____), _____
Mr. SCOTT of South Carolina introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To amend the Export Control Reform Act of 2018 to provide for the security of information and communications technology and services supply chains, 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 **[“**
5 _____ Act of 2026”**]**.

1 **SEC. 2. ASSISTANT SECRETARY OF COMMERCE FOR INFOR-**
2 **MATION AND COMMUNICATIONS TECH-**
3 **NOLOGY SUPPLY CHAINS.**

4 Part III of the Export Control Reform Act of 2018
5 (50 U.S.C. 4851 et seq.) is amended—

6 (1) in the part heading, by striking “**ADMINIS-**
7 **TRATIVE AUTHORITIES**” and inserting “**ORGANI-**
8 **ZATION OF BUREAU OF INDUSTRY AND SECU-**
9 **RITY**”; and

10 (2) by adding at the end the following:

11 **“SEC. 1783. ASSISTANT SECRETARY OF COMMERCE FOR IN-**
12 **FORMATION AND COMMUNICATIONS TECH-**
13 **NOLOGY SUPPLY CHAINS.**

14 “(a) IN GENERAL.—The President shall appoint, by
15 and with the advice and consent of the Senate, and in ad-
16 dition to the Assistant Secretaries of Commerce appointed
17 under section 1782, an Assistant Secretary of Commerce
18 for Information and Communications Technology Supply
19 Chains (in this section referred to as the ‘Assistant Sec-
20 retary’), who shall report to the Under Secretary of Com-
21 merce for Industry and Security.

22 “(b) RESPONSIBILITIES.—The Assistant Secretary
23 shall be responsible for overseeing the Office of Informa-
24 tion and Communications Technology and Services estab-
25 lished by section 1784.”.

1 **SEC. 3. OFFICE OF INFORMATION AND COMMUNICATIONS**
2 **TECHNOLOGY AND SERVICES.**

3 Part III of the Export Control Reform Act of 2018,
4 as amended by section 2, is further amended by adding
5 at the end the following:

6 **“SEC. 1784. OFFICE OF INFORMATION AND COMMUNICA-**
7 **TIONS TECHNOLOGY AND SERVICES.**

8 “(a) **ESTABLISHMENT.**—The Secretary shall estab-
9 lish an Office of Information and Communications Tech-
10 nology and Services (in this section referred to as the ‘Of-
11 fice’) within the Bureau of Industry and Security.

12 “(b) **ORGANIZATIONAL STRUCTURE.**—The head of
13 the Office shall report directly to the Assistant Secretary
14 of Commerce for Information and Communications Tech-
15 nology Supply Chains.

16 “(c) **DUTIES.**—The Office shall—

17 “(1) administer part IV; and

18 “(2) carry out such other duties as the Sec-
19 retary or the Assistant Secretary of Commerce for
20 Information and Communications Technology Sup-
21 ply Chains may assign.

22 “(d) **AVAILABILITY OF INFORMATION TO CON-**
23 **GRESS.**—

24 “(1) **IN GENERAL.**—Any information obtained
25 at any time by the Office in carrying out the duties
26 of the Office under subsection (c), including in ad-

1 ministering part IV, shall be made available to a
2 committee or subcommittee of Congress of appro-
3 priate jurisdiction, upon the request of the chairman
4 or ranking minority member of the committee or
5 subcommittee.

6 “(2) PROHIBITION ON FURTHER DISCLO-
7 SURE.—No committee or subcommittee referred to
8 in paragraph (1), or any member thereof, may dis-
9 close any information made available under para-
10 graph (1) that is submitted on a confidential basis
11 unless the full committee determines that the with-
12 holding of that information is contrary to the na-
13 tional interest.”.

14 **SEC. 4. SECURITY OF INFORMATION AND COMMUNICA-**
15 **TIONS TECHNOLOGY AND SERVICES SUPPLY**
16 **CHAINS.**

17 (a) IN GENERAL.—The Export Control Reform Act
18 of 2018, as amended by sections 2 and 3, is further
19 amended by adding at the end the following:

20 **“PART IV—SECURITY OF INFORMATION AND**
21 **COMMUNICATIONS TECHNOLOGY AND SERV-**
22 **ICES SUPPLY CHAINS**

23 **“SEC. 1785. DEFINITIONS.**

24 “In this part:

1 “(1) APPROPRIATE CONGRESSIONAL COMMIT-
2 TEES.—The term ‘appropriate congressional com-
3 mittees’ means the Committee on Banking, Housing,
4 and Urban Affairs of the Senate and the Committee
5 on Foreign Affairs of the House of Representatives.

6 “(2) COUNTRY OF CONCERN.—The term ‘coun-
7 try of concern’ means—

8 “(A) the People’s Republic of China, in-
9 cluding the Hong Kong and Macau Special Ad-
10 ministrative Regions;

11 “(B) the Republic of Cuba;

12 “(C) the Islamic Republic of Iran;

13 “(D) the Democratic People’s Republic of
14 Korea; and

15 “(E) the Russian Federation.

16 “(3) COVERED ICTS TRANSACTION.—The term
17 ‘covered ICTS transaction’ means any transaction
18 described in section 1785A(b) or a class of such
19 transactions.

20 “(4) INFORMATION AND COMMUNICATIONS
21 TECHNOLOGY OR SERVICES; ICTS.—The terms ‘in-
22 formation and communications technology or serv-
23 ices’ and ‘ICTS’ mean any hardware, software, con-
24 nected software applications, or other product or
25 service primarily intended to fulfill or enable the

1 function of information or data processing, storage,
2 retrieval, or communication by electronic means, in-
3 cluding through transmission, storage, or display.

4 “(5) OPEN-SOURCE SOFTWARE.—The term
5 ‘open -source software’ means software for which the
6 human-readable source code is available in its en-
7 tirety for use, study, reuse, modification, enhance-
8 ment, and redistribution by the users of the soft-
9 ware.

10 **“SEC. 1785A. PROHIBITION ON TRANSACTIONS THAT**
11 **THREATEN SECURITY OF INFORMATION AND**
12 **COMMUNICATIONS TECHNOLOGY AND SERV-**
13 **ICES SUPPLY CHAINS.**

14 “(a) IN GENERAL.—Except as otherwise specifically
15 provided in this part, a transaction described in subsection
16 (b) is prohibited.

17 “(b) TRANSACTIONS DESCRIBED.—A transaction de-
18 scribed in this subsection is any acquisition, importation,
19 transfer, installation, dealing in, or use of any information
20 and communications technology or service by any person,
21 or with respect to any property, subject to the jurisdiction
22 of the United States, if the Secretary, in consultation with
23 the heads of the relevant Federal agencies, has determined
24 that the transaction—

1 “(1) involves information and communications
2 technology or services designed, developed, manufac-
3 tured, or supplied by persons owned by, controlled
4 by, or subject to the jurisdiction or direction of a
5 country of concern; and

6 “(2)(A) poses an undue risk of sabotage to or
7 subversion of the design, integrity, manufacturing,
8 production, distribution, installation, operation, or
9 maintenance of information and communications
10 technology or services in the United States;

11 “(B) poses an undue risk of catastrophic effects
12 on the security or resiliency of United States critical
13 infrastructure or the digital economy of the United
14 States; or

15 “(C) otherwise poses an unacceptable risk to
16 the national security of the United States or the se-
17 curity and safety of United States persons.

18 “(c) EXCEPTION FOR INFORMATION AND INFORMA-
19 TIONAL MATERIALS.—The prohibition under subsection
20 (a) shall not include a prohibition intended to prevent the
21 importation from any country, or the exportation to any
22 country, whether commercial or otherwise, of any expres-
23 sive materials, including—

24 “(1) publications, films, posters, photographs,
25 artworks, news wire feeds, digital streaming content,

1 podcasts, social media posts, blogs, online news arti-
2 cles, and other electronically distributed media; and

3 “(2) items and transactions described in section
4 203(b) of the International Emergency Economic
5 Powers Act (50 U.S.C. 1702(b)).

6 “(d) EXCEPTION FOR OPEN-SOURCE SOFTWARE.—
7 The prohibition under subsection (a) does not include a
8 prohibition on transactions specifically intended to provide
9 the public with access to open-source software.

10 “(e) EFFECT ON CONTRACTS AND PERMITS.—The
11 prohibition under subsection (a) applies notwithstanding
12 any contract entered into or license or permit granted be-
13 fore the date of the enactment of this part.

14 **“SEC. 1785B. AUTHORIZATION TO PRESCRIBE REGULA-**
15 **TIONS WITH RESPECT TO COVERED ICTS**
16 **TRANSACTIONS AND PERSONS AND JURIS-**
17 **DICTIONS OF CONCERN.**

18 “If Secretary determines that, for certain classes of
19 covered ICTS transactions, the prohibition under sub-
20 section (a) of section 1785A may not effectively address
21 the undue or unacceptable risks described in subsection
22 (b)(2) of that section, the Secretary may—

23 “(1) prescribe regulations that—

1 “(A) identify particular covered ICTS
2 transactions or persons or jurisdictions of con-
3 cern that pose such a risk;

4 “(B) impose mitigation measures and pro-
5 hibitions to address the risk posed by such
6 transactions, persons, or jurisdictions;

7 “(C) establish criteria by which particular
8 covered ICTS transactions or particular classes
9 of participants in the covered ICTS transaction
10 supply chain may be recognized as categorically
11 included in or as categorically excluded from
12 mitigation measures or prohibitions imposed
13 under subparagraph (B);

14 “(D) establish particular classes of covered
15 ICTS transactions or parties to such trans-
16 actions that are required to abide by such miti-
17 gation measures and prohibitions; and

18 “(E) establish procedures to authorize or
19 license transactions otherwise prohibited pursu-
20 ant to a regulation prescribed under this sec-
21 tion; and

22 “(2) prescribe such other regulations as the
23 Secretary determines to be necessary or appropriate
24 to address the undue or unacceptable risks described
25 in section 1785A(b)(2).

1 **“SEC. 1785C. ADMINISTRATION.**

2 “(a) IN GENERAL.—The head of the Office of Infor-
3 mation and Communications Technology and Services es-
4 tablished under section 1784 (in this section referred to
5 as the ‘head of the Office’) shall administer this part.

6 “(b) MITIGATION AND APPROVAL OF COVERED ICTS
7 TRANSACTIONS.—The head of the Office, in consultation
8 with the heads of the relevant Federal agencies, may—

9 “(1) design, negotiate, and impose mitigation
10 measures with respect to a covered ICTS trans-
11 action; and

12 “(2) approve the transaction if those measures
13 are implemented.

14 “(c) REGULATIONS.—The Secretary, acting through
15 the head of the Office, may prescribe regulations to carry
16 out this part.

17 **“SEC. 1785D. JUDICIAL REVIEW.**

18 “(a) EXCLUSIVE JURISDICTION.—A claim or petition
19 challenging this part or any final action or determination
20 under this part may be filed only in the United States
21 Court of Appeals for the District of Columbia Circuit.
22 Notwithstanding the preceding sentence, the United
23 States District Court for the District of Columbia Circuit
24 shall have the jurisdiction and power to order and require
25 compliance with any subpoena issued under this part.

26 “(b) IN CAMERA AND EX PARTE REVIEW.—

1 “(1) IN GENERAL.—The following information
2 may be included in the administrative record and
3 shall be submitted only to the court ex parte and in
4 camera:

5 “(A) Sensitive security information, as de-
6 fined in section 1520.5 of title 49, Code of Fed-
7 eral Regulations.

8 “(B) Records or information compiled for
9 law enforcement purposes, as described in sec-
10 tion 552(b)(7) of title 5, United States Code.

11 “(C) Classified information, as defined in
12 section 1(a) of the Classified Information Pro-
13 cedures Act (18 U.S.C. App.).

14 “(2) TREATMENT OF INFORMATION FILED IN
15 CAMERA AND EX PARTE.—Any information that is
16 part of the administrative record filed ex parte and
17 in camera under paragraph (1), or cited by the court
18 in any decision, shall be treated by the court con-
19 sistent with the provisions of this section. In no
20 event shall such information be released to the
21 claimant or petitioner or as part of the public
22 record, or shall the petitioner be permitted to review
23 information submitted to the court ex parte and in
24 camera.

1 “(c) EXCLUSIVE REMEDY.—A determination by the
2 court under this section shall be the exclusive judicial rem-
3 edy for any claim or petition for review challenging this
4 part or any final action or determination under this part
5 against the United States, any agency, or any component
6 or official of any such agency.

7 “(d) RULE OF CONSTRUCTION.—Nothing in this sec-
8 tion may be construed as limiting, superseding, or pre-
9 venting the invocation of any privileges or defenses that
10 are otherwise available at law or in equity to protect
11 against the disclosure of information.

12 “(e) STATUTE OF LIMITATIONS.—A challenge to any
13 final action or determination under this part may only be
14 brought not later than 180 days after the date of such
15 an action or determination.

16 **“SEC. 1785E. PENALTIES.**

17 “(a) UNLAWFUL ACTS.—It shall be unlawful for a
18 person to violate, attempt to violate, conspire to violate,
19 or cause a violation of any regulation, order, direction,
20 prohibition, or other authorization or directive issued
21 under this part.

22 “(b) CRIMINAL PENALTIES.—A person who willfully
23 commits, willfully attempts to commit, or willfully con-
24 spires to commit, or aids and abets in the commission of
25 an unlawful act described in subsection (a)—

1 “(1) shall be fined not more than \$1,000,000;
2 and

3 “(2) in the case of the individual, shall be im-
4 prisoned for not more than 20 years, or both.

5 “(c) CIVIL PENALTIES.—

6 “(1) IN GENERAL.—The Secretary may impose
7 the following civil penalties on a person for each vio-
8 lation by that person of this part or any regulation,
9 order, or license issued under this part:

10 “(A) A fine that is the greater of
11 \$1,500,000 or an amount that is 5 times the
12 value of the transaction that is the basis of the
13 violation with respect to which the penalty is
14 imposed.

15 “(B) Revocation of any mitigation measure
16 or authorization issued under this part to the
17 person.

18 “(C) A prohibition or other restriction on
19 the ability of the person to engage in any cov-
20 ered ICTS transaction.

21 “(2) INFLATION.—The fine under paragraph
22 (1)(A) is subject to adjustment pursuant to the Fed-
23 eral Civil Penalties Inflation Adjustment Act of
24 1990 (Public Law 101–410; 28 U.S.C. 2461 note).

1 “(3) STANDARDS FOR LEVELS OF CIVIL PEN-
2 ALTY.—The Secretary may by regulation provide
3 standards for establishing levels of civil penalty
4 under paragraph (1) based upon factors that in-
5 clude—

6 “(A) the seriousness of the violation to the
7 national security of the United States;

8 “(B) the intent or actions of the violator,
9 including any pattern of reckless behavior; and

10 “(C) any mitigating factors, such as a
11 record of cooperation of the violator with the
12 Federal Government in disclosing the violation.

13 **“SEC. 1785F. RELATIONSHIP TO OTHER LAWS.**

14 “(a) RULE OF CONSTRUCTION RELATING TO OTHER
15 LAW.—Nothing in this part shall be construed to alter or
16 affect any other authority, process, regulation, investiga-
17 tion, enforcement measure, or review provided by or estab-
18 lished under any other provision of Federal law.

19 “(b) ADMINISTRATIVE PROCEDURE EXCEPTIONS.—
20 Except with respect to a civil penalty imposed pursuant
21 to section 1785E(d), any function exercised under this
22 part is not subject to sections 551, 553 through 559, and
23 701 through 706 of title 5, United States Code.

24 “(c) PAPERWORK REDUCTION ACT EXCEPTION.—
25 The requirements of chapter 35 of title 44, United States

1 Code (commonly referred to as the ‘Paperwork Reduction
2 Act’), shall not apply to any action to implement this part.

3 “(d) DEFENSE PRODUCTION ACT OF 1950.—

4 “(1) RULE OF CONSTRUCTION.—Nothing in
5 this part shall prevent or preclude the President or
6 the Committee on Foreign Investment in the United
7 States from exercising any authority under section
8 721 of the Defense Production Act of 1950 (50
9 U.S.C. 4565) that would be available in the absence
10 of this part.

11 “(2) COORDINATION OF REVIEWS.—The Sec-
12 retary shall terminate the review of a covered ICTS
13 transaction under this part if—

14 “(A) the transaction involves the acquisi-
15 tion of ICTS items by a United States person
16 as a party to a transaction authorized under
17 the Defense Production Act of 1950 (50 U.S.C.
18 4501 et seq.); or

19 “(B) the Committee on Foreign Invest-
20 ment in the United States is conducting a re-
21 view or investigation of the transaction under
22 section 721 of the Defense Production Act of
23 1950 (50 U.S.C. 4565).

24 “(e) EXECUTIVE ORDERS 13873 AND 14034.—

1 “(1) RULE OF CONSTRUCTION.—Nothing in
2 this part may be construed as altering any of the
3 authority of the Secretary under Executive Order
4 13873 (50 U.S.C. 1701 note; relating to securing
5 the information and communications technology and
6 services supply chain) or Executive Order 14034 (50
7 U.S.C. 1701 note; relating to protecting Americans’
8 sensitive data from foreign adversaries).

9 “(2) CONTINUATION IN EFFECT.—Any regula-
10 tion the Secretary prescribed under Executive Order
11 13873 (50 U.S.C. 1701 note; relating to securing
12 the information and communications technology and
13 services supply chain) or Executive Order 14034 (50
14 U.S.C. 1701 note; relating to protecting Americans’
15 sensitive data from foreign adversaries) before the
16 date of the enactment of this part shall continue in
17 effect on and after such date of enactment.

18 **“SEC. 1785G. AUTHORIZATION OF OTHER ACTIONS.**

19 “In carrying out the requirements of this part, the
20 Secretary may take any other actions that the Secretary
21 determines to be necessary or appropriate, including pre-
22 scribing new regulations, amending regulations, publishing
23 any notices in the Federal Register (including with respect
24 to mitigation measures and prohibitions imposed under
25 section 1785B), issuing guidance, establishing procedures,

1 revoking or amending authorizations, and terminating or
2 amending any determination.

3 **“SEC. 1785H. ANNUAL REPORTS.**

4 “Not later than 180 days after the date of the enact-
5 ment of this part, and annually thereafter, the head of
6 the Office of Information and Communications Tech-
7 nology and Services shall submit to the appropriate con-
8 gressional committees a report on actions taken to carry
9 out this part during the one-year period preceding submis-
10 sion of the report.

11 **“SEC. 1785I. TERMINATION.**

12 “The prohibition under section 1785A(a) and the re-
13 quirements of and authorities provided by this part termi-
14 nate on the date that is 5 years after the date of the enact-
15 ment of this part.”.

16 (b) CONFORMING AMENDMENT.—Section
17 1742(13)(A) of the Export Control Reform Act of 2018
18 (50 U.S.C. 4801(13)(A)) is amended, in the matter pre-
19 ceding clause (i), by striking “part I” and inserting “parts
20 I and IV”.