

117TH CONGRESS
1ST SESSION

S. 3326

To modify Department of Defense printed circuit board acquisition restrictions, and for other purposes.

IN THE SENATE OF THE UNITED STATES

DECEMBER 7, 2021

Mr. HAWLEY introduced the following bill; which was read twice and referred to the Committee on Armed Services

A BILL

To modify Department of Defense printed circuit board acquisition restrictions, 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 “Strengthening Protec-
5 tions Against Chinese Printed Circuit Boards Act”.

6 **SEC. 2. MODIFICATIONS TO PRINTED CIRCUIT BOARD AC-**
7 **QUISITION RESTRICTIONS.**

8 (a) IN GENERAL.—Section 2533d of title 10, United
9 States Code, is amended—

10 (1) in subsection (a)—

1 (A) in paragraph (1), by striking “January
2 1, 2023” and inserting “the date determined
3 under paragraph (3)”; and

4 (B) by adding at the end the following new
5 paragraph:

6 “(3) Paragraph (1) shall take effect on January
7 1, 2027.”;

8 (2) in subsection (c)—

9 (A) in paragraph (2)—

10 (i) in the matter preceding subpara-
11 graph (A), by inserting “specified type of”
12 after “means any”;

13 (ii) in subparagraph (A), by striking
14 “(as such terms are defined under sections
15 103 and 103a of title 41, respectively)”;
16 and

17 (iii) by amending subparagraph (B) to
18 read as follows:

19 “(B) is a component of—

20 “(i) a defense security system; or

21 “(ii) a system, other than a defense
22 security system, that transmits or stores
23 information and which the Secretary iden-
24 tifies as national security sensitive in the

1 contract under which such printed circuit
2 board is acquired.”; and

3 (B) by adding at the end the following new
4 paragraphs:

5 “(3) COMMERCIAL PRODUCT; COMMERCIAL
6 SERVICE; COMMERCIALLY AVAILABLE OFF-THE-
7 SHELF ITEM.—The terms ‘commercial product’,
8 ‘commercial service’, and ‘commercially available off-
9 the-shelf item’ have the meanings given such terms
10 in sections 103, 103a, and 104 of title 41, respec-
11 tively.

12 “(4) DEFENSE SECURITY SYSTEM.—

13 “(A) The term ‘defense security system’
14 means an information system (including a tele-
15 communications system) used or operated by
16 the Department of Defense, by a contractor of
17 the Department, or by another organization on
18 behalf of the Department, the function, oper-
19 ation, or use of which—

20 “(i) involves command and control of
21 an armed force;

22 “(ii) involves equipment that is an in-
23 tegral part of a weapon or weapon system;
24 or

1 “(iii) subject to subparagraph (B), is
 2 critical to the direct fulfillment of military
 3 missions.

4 “(B) Subparagraph (A)(iii) does not in-
 5 clude a system that is to be used for routine ad-
 6 ministrative and business applications (includ-
 7 ing payroll, finance, logistics, and personnel
 8 management applications).

9 “(5) SPECIFIED TYPE.—The term ‘specified
 10 type’ means a printed circuit board that is—

11 “(A) a component of an electronic device
 12 that facilitates the routing, connecting, trans-
 13 mitting or securing of data and is commonly
 14 connected to a network; and

15 “(B) any other end item, good, or product
 16 specified by the Secretary in accordance with
 17 subsection (d)(2).”; and

18 (3) by amending subsection (d) to read as fol-
 19 lows:

20 “(d) RULEMAKING.—

21 “(1) The Secretary may issue rules providing
 22 that subsection (a) may not apply with respect to an
 23 acquisition of commercial products, commercial serv-
 24 ices, and commercially available off-the-shelf items
 25 if—

1 “(A) the contractor is capable of meeting
2 minimum requirements that the Secretary
3 deems necessary to provide for the security of
4 national security networks and weapon systems,
5 including, at a minimum, compliance with sec-
6 tion 224 of the National Defense Authorization
7 Act for Fiscal Year 2020 (Public Law 116–92;
8 10 U.S.C. 2302 note); and

9 “(B) either—

10 “(i) the Government and the con-
11 tractor have agreed to a contract requiring
12 the contractor to take certain actions to
13 ensure the integrity and security of the
14 item, including protecting the item from
15 unauthorized access, use, disclosure, dis-
16 ruption, modification, or destruction; or

17 “(ii) the Secretary has determined
18 that the contractor has adopted such pro-
19 cedures, tools, and methods for identifying
20 the sources of components of such item,
21 based on commercial best practices, that
22 meet or exceed the applicable trusted sup-
23 ply chain and operational security stand-
24 ards of the Department of Defense.

1 “(2) The Secretary may issue rules specifying
2 end items, goods, and products for which a printed
3 circuit board that is a component thereof shall be a
4 ‘specified type’ if the Secretary has promulgated
5 final regulations, after an opportunity for notice and
6 comment that is not less than 12 months, imple-
7 menting this section.

8 “(3) In carrying out this section, the Secretary
9 shall, to the maximum extent practicable, avoid im-
10 posing contractual certification requirements with
11 respect to the acquisition of commercial products,
12 commercial services, or commercially available off-
13 the-shelf items.”.

14 (b) MODIFICATION OF INDEPENDENT ASSESSMENT
15 OF PRINTED CIRCUIT BOARDS.—Section 841(d) of the
16 William M. (Mac) Thornberry National Defense Author-
17 ization Act for Fiscal Year 2021 (Public Law 116–283)
18 is amended—

19 (1) in paragraph (1)—

20 (A) by striking “the date of enactment of
21 this Act” and inserting “the date of the enact-
22 ment of the National Defense Authorization Act
23 for Fiscal Year 2022”;

24 (B) by striking “shall seek to enter” and
25 inserting “shall enter”;

1 (C) by striking “to include printed circuit
2 boards in commercial products or services, or
3 in” and inserting “to printed circuit boards in
4 other commercial or”; and

5 (D) by striking “the scope of mission crit-
6 ical” and all that follows through the period at
7 the end and inserting “types of systems other
8 than defense security systems (as defined in
9 section 2533d(c) of title 10, United States
10 Code) that should be subject to the prohibition
11 in section 2533d(a) of title 10, United States
12 Code.”;

13 (2) in the heading for paragraph (2), by strik-
14 ing “DEPARTMENT OF DEFENSE” and inserting
15 “DEPARTMENT OF DEFENSE”;

16 (3) in paragraph (2), by striking “one year
17 after entering into the contract described in para-
18 graph (1)” and inserting “January 1, 2023”;

19 (4) in the heading for paragraph (3), by strik-
20 ing “CONGRESS” and inserting “CONGRESS”; and

21 (5) in paragraph (3), by inserting after “the
22 recommendations of the report.” the following: “The
23 Secretary shall use the report to determine whether
24 any systems (other than defense security systems (as
25 defined in section 2533d(c) of title 10, United States

1 Code)) or other types of printed circuit boards
2 should be subject to the prohibition in section
3 2533d(a) of title 10, United States Code.”.

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