



(Original Signature of Member)

118TH CONGRESS
1ST SESSION

H. R. _____

To prohibit or require notification with respect to certain activities of United States persons involving countries of concern, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. MCCAUL (for himself and Mr. MEEKS) introduced the following bill; which was referred to the Committee on _____

A BILL

To prohibit or require notification with respect to certain activities of United States persons involving countries of concern, 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 “Preventing Adversaries
5 from Developing Critical Capabilities Act”.

1 **SEC. 2. EXERCISE OF AUTHORITIES UNDER THE INTER-**
2 **NATIONAL EMERGENCY ECONOMIC POWERS**
3 **ACT.**

4 (a) IN GENERAL.—The President may exercise all
5 authorities provided under the International Emergency
6 Economic Powers Act (50 U.S.C. 1701 et seq.) necessary
7 to carry out the provisions of this Act, including authori-
8 ties to impose penalties under section 206 of such Act.

9 (b) DELEGATION.—The President may delegate the
10 authorities described in subsection (a) to the head of any
11 Federal agency the President determines appropriate in
12 order to carry out the provisions of this Act.

13 **SEC. 3. PROHIBITION ON COVERED ACTIVITIES IN COV-**
14 **ERED SECTORS THAT POSE PARTICULARLY**
15 **ACUTE THREATS TO UNITED STATES NA-**
16 **TIONAL SECURITY.**

17 (a) IDENTIFICATION OF CATEGORIES OF TECH-
18 NOLOGIES AND PRODUCTS.—

19 (1) IN GENERAL.—Not later than one year
20 after the date of the enactment of this Act, and an-
21 nually thereafter as described in paragraph (2), the
22 President—

23 (A) shall identify categories of technologies
24 and products in covered sectors that may pose
25 a particularly acute threat to the national secu-

1 rity of the United States if developed or ac-
2 quired by a country of concern; and

3 (B) publish a list of the categories of tech-
4 nologies and products identified under para-
5 graph (1) in the Federal Register.

6 (2) UPDATES.—The President shall annually
7 review and update the list of the categories of tech-
8 nologies and products identified under paragraph
9 (1)(A) and update the Federal Register under para-
10 graph (1)(B) as appropriate.

11 (b) PROHIBITION ON COVERED ACTIVITIES.—The
12 President shall, on or after the date on which the initial
13 list of categories of technologies and products is published
14 in the Federal Register pursuant to subsection (a)(1)(B),
15 prescribe, subject to public notice and comment, regula-
16 tions to prohibit a United States person from engaging,
17 directly or indirectly, in a covered activity involving a cat-
18 egory of technologies and products on such list of cat-
19 egories of technologies and products in a covered sector.
20 Such regulations should—

21 (1) require that a United States person take all
22 reasonable steps to prohibit and prevent any trans-
23 action by a foreign entity under the control of the
24 United States person that would be a prohibited

1 transaction if engaged in by a United States person;
2 and

3 (2) exclude any transaction consisting of the ac-
4 quisition of an equity or other interest in an entity
5 located outside a country of concern, where the
6 President has determined that the government of the
7 country in which that entity is established or has its
8 principal place of business has in place a program
9 for the restriction of certain activities involving
10 countries of concern that is comparable to the provi-
11 sions provided for in this Act.

12 (c) SENSE OF CONGRESS.—It is the sense of Con-
13 gress that the covered sectors include certain categories
14 of technologies and products that would pose a particu-
15 larly acute threat to the national security of the United
16 States if developed or acquired by a country of concern,
17 and that the President should identify certain technologies
18 and products in the covered sectors as categories of tech-
19 nologies and products in covered sectors for purposes of
20 subsection (a)(1).

1 **SEC. 4. MANDATORY NOTIFICATION OF COVERED ACTIVI-**
2 **TIES IN COVERED SECTORS THAT MAY POSE**
3 **THREATS TO UNITED STATES NATIONAL SE-**
4 **CURITY.**

5 (a) IDENTIFICATION OF CATEGORIES OF TECH-
6 NOLOGIES AND PRODUCTS.—Not later than one year after
7 the date of the enactment of this Act, the President
8 shall—

9 (1) identify categories of technologies and prod-
10 ucts in covered sectors that may pose a threat to the
11 national security of the United States if developed or
12 acquired by a country of concern;

13 (2) publish a list of the categories of tech-
14 nologies and products identified under paragraph (1)
15 in the Federal Register; and

16 (3) annually thereafter, review the categories of
17 technologies and products identified under para-
18 graph (1) and publish an updated list of the cat-
19 egories of technologies and products in the Federal
20 Register under paragraph (2) if the list identified in
21 paragraph (2) has changed.

22 (b) MANDATORY NOTIFICATION.—

23 (1) IN GENERAL.—Beginning on the date that
24 is 90 days after the date on which the initial list of
25 categories of technologies and products is published
26 in the Federal Register pursuant to subsection

1 (a)(2), a United States person engaging in a covered
2 activity involving a category identified in subsection
3 (a)(1), or controlling a foreign entity engaging in an
4 activity that would be a covered activity if engaged
5 in by a United States person, shall submit to the
6 President a complete written notification of the ac-
7 tivity not later than 14 days after the completion
8 date of the activity.

9 (2) CIRCULATION OF NOTIFICATION.—

10 (A) IN GENERAL.—The President shall,
11 upon receipt of a notification under paragraph
12 (1), promptly inspect the notification for com-
13 pleteness.

14 (B) INCOMPLETE NOTIFICATION.—If a no-
15 tification submitted under paragraph (1) is in-
16 complete, the President shall promptly inform
17 the United States person that submits the noti-
18 fication that the notification is not complete
19 and provide an explanation for relevant mate-
20 rial respect in which the notification is not com-
21 plete.

22 (3) IDENTIFICATION OF NON-NOTIFIED ACTIV-
23 ITY.—The President shall establish a process to
24 identify a covered activity involving a category iden-
25 tified under subsection (a)(1) for which—

1 (A) a notification is not submitted to the
2 President under paragraph (1); and

3 (B) information is reasonably available.

4 (c) CONFIDENTIALITY OF INFORMATION.—

5 (1) IN GENERAL.—Except as provided in para-
6 graph (2), any information or documentary material
7 filed with the President pursuant to this section
8 shall be exempt from disclosure under section
9 552(b)(3) of title 5, United States Code, and no
10 such information or documentary material may be
11 made public by any government agency or Member
12 of Congress.

13 (2) EXCEPTIONS.—Subject to appropriate con-
14 fidentiality and classification requirements, the ex-
15 emption from disclosure provided by paragraph (1)
16 shall not prevent the disclosure of the following:

17 (A) Information relevant to any adminis-
18 trative or judicial action or proceeding.

19 (B) Information provided to Congress or
20 any of the appropriate congressional commit-
21 tees.

22 (C) Information important to national se-
23 curity analysis or actions of the President to
24 any domestic government entity, or to any for-
25 eign governmental entity of an ally or partner

1 of the United States, under the direction and
2 authorization of the President, only to the ex-
3 tent necessary for national security purposes.

4 (D) Information that the parties have con-
5 sented to be disclosed to third parties.

6 **SEC. 5. REPORTING REQUIREMENTS.**

7 (a) IN GENERAL.—Not later than one year after the
8 date on which the regulations prescribed under section 6
9 take effect, and not less frequently than annually there-
10 after, the President shall submit to the appropriate con-
11 gressional committees a report that—

12 (1) lists all notifications submitted under sec-
13 tion 4(b) during the year preceding submission of
14 the report, disaggregated by—

15 (A) sector;

16 (B) covered activity;

17 (C) covered foreign entity; and

18 (D) country of concern;

19 (2) an assessment of whether to amend the reg-
20 ulations, including whether to amend the definition
21 of “covered sectors” to enhance national security;

22 (3) provides additional context and information
23 regarding trends in the sectors, the types of covered
24 activity, and the countries involved in those notifica-
25 tions, including—

1 (A) the location of the relevant covered for-
2 eign entities; and

3 (B) the country in which the United States
4 person or foreign entity controlled by such
5 United States person involved in the relevant
6 covered activity is located; and

7 (4) assesses the overall impact of those notifica-
8 tions, including recommendations for—

9 (A) expanding existing Federal programs
10 to support the production or supply of covered
11 sectors in the United States, including the po-
12 tential of existing authorities to address any re-
13 lated national security concerns; and

14 (B) the continuation, expansion, or modi-
15 fication of the implementation and administra-
16 tion of this Act.

17 (b) FORM.—Each report required by this section
18 shall be submitted in unclassified form, but may include
19 a classified annex.

20 (c) PROHIBITION ON DISCLOSURE.—Information
21 contained in each report required by this section may be
22 withheld from disclosure only to the extent otherwise per-
23 mitted by statute, except that all information included
24 pursuant to subsection (a)(1) shall be withheld from public
25 disclosure.

1 **SEC. 6. REQUIREMENT FOR REGULATIONS.**

2 (a) **IN GENERAL.**—Not later than 180 days after the
3 date on which the initial list of categories of technologies
4 and products have been published in the Federal Register
5 pursuant to sections 3(a)(1)(B) and 4(a)(2), the President
6 shall prescribe and finalize proposed regulations to carry
7 out this Act.

8 (b) **ELEMENTS.**—Regulations prescribed to carry out
9 this Act shall specify—

10 (1) the types of activities that will be considered
11 to be covered activities;

12 (2) the technologies and products in covered
13 sectors with respect to which covered activities are
14 prohibited under section 3(b) or require a notifica-
15 tion under section 4(b); and

16 (3) a process by which parties can ask ques-
17 tions and get timely guidance as to whether a cov-
18 ered activity is prohibited under section 3(b) or re-
19 quires a notification under section 4(b).

20 (c) **REQUIREMENTS FOR CERTAIN REGULATIONS.**—

21 The President shall prescribe regulations further defining
22 the terms used in this Act, including the terms “covered
23 activity”, “covered foreign entity”, and “party”, to maxi-
24 mize the effectiveness of carrying out this Act in accord-
25 ance with subchapter II of chapter 5 and chapter 7 of

1 title 5 (commonly known as the “Administrative Proce-
2 dure Act”).

3 (d) PUBLIC NOTICE AND COMMENT.—Regulations
4 issued pursuant to subsection (a) shall be subject to public
5 notice and comment.

6 (e) LOW-BURDEN REGULATIONS.—In prescribing
7 regulations under this section, the President shall, to the
8 extent practicable, structure the regulations—

9 (1) to minimize the cost and complexity of com-
10 pliance for affected parties;

11 (2) to ensure the benefits of the regulations
12 outweigh their costs;

13 (3) to adopt the least burdensome alternative
14 that achieves regulatory objectives;

15 (4) to prioritize transparency and stakeholder
16 involvement in the process of prescribing the regula-
17 tions; and

18 (5) to regularly review and streamline existing
19 regulations promulgated pursuant to this Act to re-
20 duce redundancy and complexity.

21 (f) PENALTIES WITH RESPECT TO UNLAWFUL
22 ACTS.—Regulations issued under this section shall, con-
23 sistent with the authority provided by section 2(a), provide
24 for the imposition of civil penalties for violations of this
25 section, that involve—

1 (1) engaging in a covered activity prohibited
2 under section 3(b) pursuant to the regulations
3 issued under this section;

4 (2) failing to submit a timely notification under
5 section 4(b) with respect to a covered activity or to
6 submit other information as required by the des-
7 igned agency; or

8 (3) submitting a material misstatement or omit-
9 ting a material fact in any information submitted in
10 a notification under section 4(b).

11 (g) ENFORCEMENT.—Consistent with the authority
12 provided by section 2(a), the President may direct the At-
13 torney General to seek appropriate relief in the district
14 courts of the United States, in order to implement and
15 enforce this Act.

16 (h) CONGRESSIONAL NOTIFICATION.—The President
17 shall submit to the appropriate congressional committees
18 all regulations prescribed to carry out this Act not later
19 than 30 days before such regulations are to take effect.

20 **SEC. 7. MULTILATERAL ENGAGEMENT AND COORDINA-**
21 **TION.**

22 (a) IN GENERAL.—The President shall delegate the
23 authorities and functions under this section to the Sec-
24 retary of State.

1 (b) AUTHORITIES.—The Secretary of State, in co-
2 ordination with the heads or other relevant Federal agen-
3 cies, should—

4 (1) conduct bilateral and multilateral engage-
5 ment with the governments of countries that are al-
6 lies and partners of the United States to promote
7 and increase coordination of protocols and proce-
8 dures to facilitate the effective implementation of
9 and appropriate compliance with the prohibitions
10 and notifications pursuant to this Act;

11 (2) upon adoption of protocols and procedures
12 described in paragraph (1), work with those govern-
13 ments to establish mechanisms for sharing informa-
14 tion, including trends, with respect to such activities;
15 and

16 (3) work with and encourage the governments
17 of countries that are allies and partners of the
18 United States to develop similar mechanisms of their
19 own.

20 (c) STRATEGY FOR MULTILATERAL ENGAGEMENT
21 AND COORDINATION.—Not later than 180 days after the
22 date of the enactment of this Act, the Secretary of State,
23 in coordination with the heads of other relevant Federal
24 agencies, should—

1 (1) develop a strategy to work with the govern-
2 ments of countries that are allies and partners of
3 the United States to develop mechanisms that are
4 comparable to the prohibitions and notifications pur-
5 suant to this Act; and

6 (2) assess opportunities to provide technical as-
7 sistance to those countries with respect to the devel-
8 opment of those mechanisms.

9 (d) REPORT.—Not later than one year after the date
10 of the enactment of this Act, and annually thereafter for
11 4 years, the Secretary of State shall submit to the appro-
12 priate congressional committees a report that includes—

13 (1) a discussion of any strategy developed pur-
14 suant to subsection (c)(1), including key tools and
15 objectives for the development of comparable mecha-
16 nisms by the governments of allies and partners of
17 the United States;

18 (2) a list of partner and allied countries to tar-
19 get for cooperation in developing their own screening
20 programs;

21 (3) the status of the strategy's implementation
22 and outcomes; and

23 (4) a description of impediments to the estab-
24 lishment of comparable mechanisms by governments
25 of allies and partners of the United States.

1 **SEC. 8. AUTHORIZATION OF APPROPRIATIONS.**

2 (a) IN GENERAL.—There is authorized to be appro-
3 priated \$25,000,000, to be derived from amounts other-
4 wise authorized to be appropriated to the President, for
5 each of the first two fiscal years beginning on or after
6 the date of the enactment of this Act, to carry out this
7 Act, including to provide outreach to industry and persons
8 affected by this Act.

9 (b) HIRING AUTHORITY.—

10 (1) PRESIDENT.—The President may appoint,
11 without regard to the provisions of sections 3309
12 through 3318 of title 5, United States Code, not
13 more than 15 candidates directly to positions in the
14 competitive service (as defined in section 2102 of
15 that title).

16 (2) AGENCY.—The head of the Federal depart-
17 ment or agency designated under section 2(b) to
18 hold primary responsibility for administering this
19 Act may appoint, without regard to the provisions of
20 sections 3309 through 3318 of title 5, United States
21 Code, not fewer than 25 candidates directly to posi-
22 tions in the competitive service (as defined in section
23 2102 of that title) of such department or agency.

24 (3) PRIMARY RESPONSIBILITY.—The primary
25 responsibility of individuals in positions authorized

1 to be hired under this subsection shall be to admin-
2 ister this Act.

3 **SEC. 9. RULE OF CONSTRUCTION.**

4 Nothing in this Act may be construed to—

5 (1) restrain or deter United States activities
6 abroad if such activities do not pose a risk to the na-
7 tional security of the United States; or

8 (2) alter or negate the authority of the Presi-
9 dent under any authority, process, regulation, inves-
10 tigation, enforcement measure, or review provided by
11 or established under any other provision of Federal
12 law, or any other authority of the President or the
13 Congress under the Constitution of the United
14 States.

15 **SEC. 10. NATIONAL INTEREST WAIVER.**

16 (a) IN GENERAL.—Subject to subsection (b), the
17 President is authorized to exempt from any applicable pro-
18 hibition or notification requirement any activity deter-
19 mined by the President, in consultation with the heads of
20 relevant Federal agencies, as appropriate, to be in the na-
21 tional interest of the United States.

22 (b) CONGRESSIONAL NOTIFICATION.—The President
23 shall—

1 (1) notify the appropriate congressional com-
2 mittees not later than 48 hours after issuing a waiv-
3 er under subsection (a); and

4 (2) include in such notification an identification
5 of the national interest justifying the use of the
6 waiver.

7 **SEC. 11. DEFINITIONS.**

8 In this Act:

9 (1) **APPROPRIATE CONGRESSIONAL COMMIT-**
10 **TEES.**—The term “appropriate congressional com-
11 mittees” means—

12 (A) the Committee on Foreign Affairs, the
13 Committee on Financial Services, the Com-
14 mittee on Ways and Means, the Committee on
15 Appropriations, and the Permanent Select Com-
16 mittee on Intelligence of the House of Rep-
17 resentatives; and

18 (B) the Committee on Foreign Relations,
19 the Committee on Banking, Housing, and
20 Urban Affairs, the Committee on Finance, the
21 Committee on Appropriations, and the Select
22 Committee on Intelligence of the Senate.

23 (2) **COUNTRY OF CONCERN.**—The term “coun-
24 try of concern”—

25 (A) means—

1 (i) the Democratic People’s Republic
2 of North Korea;

3 (ii) the People’s Republic of China, in-
4 cluding the Hong Kong Special Adminis-
5 trative Region and the Macau Special Ad-
6 ministrative Region;

7 (iii) the Russian Federation; and

8 (iv) the Islamic Republic of Iran; and

9 (B) includes any other country the Presi-
10 dent determines necessary to ensure a country
11 specified in clause (i), (ii), (iii), or (iv) of sub-
12 paragraph (A) is unable to circumvent the pro-
13 visions of this Act and the regulations issued
14 pursuant to this Act.

15 (3) COVERED ACTIVITY.—

16 (A) IN GENERAL.—Subject to such regula-
17 tions as may be prescribed in accordance with
18 section 7, and except as provided in subpara-
19 graph (B), the term “covered activity” means
20 any activity engaged in by a United States per-
21 son that involves—

22 (i) an acquisition by such United
23 States person of an equity interest or con-
24 tingent equity interest, or monetary capital
25 contribution, in a covered foreign entity,

1 directly or indirectly, by contractual com-
2 mitment or otherwise, with the goal of gen-
3 erating income or gain;

4 (ii) an arrangement for an interest
5 held by such United States person in the
6 short- or long-term debt obligations of a
7 covered foreign entity that includes govern-
8 ance rights that are characteristic of an
9 equity investment, management, or other
10 important rights;

11 (iii) the establishment of a wholly
12 owned subsidiary in a country of concern,
13 such as a greenfield investment, for the
14 purpose of production, design, testing,
15 manufacturing, fabrication, or development
16 related to one or more covered sectors;

17 (iv) the establishment by such United
18 States person of a joint venture in a coun-
19 try of concern or with a covered foreign en-
20 tity for the purpose of production, design,
21 testing, manufacturing, fabrication, or re-
22 search, or other contractual or other com-
23 mitments involving a covered foreign entity
24 to jointly research and develop new innova-
25 tion, including through the transfer of cap-

1 ital or intellectual property or other busi-
2 ness proprietary information; or
3 (v) the acquisition by a United States
4 person with a covered foreign entity of—
5 (I) operational cooperation, such
6 as through supply or support arrange-
7 ments;
8 (II) the right to board represen-
9 tation (as an observer, even if limited,
10 or as a member) or an executive role
11 (as may be defined through regula-
12 tion) in a covered foreign entity;
13 (III) the ability to direct or influ-
14 ence such operational decisions as
15 may be defined through such regula-
16 tions;
17 (IV) formal governance represen-
18 tation in any operating affiliate, such
19 as a portfolio company, of a covered
20 foreign entity; or
21 (V) a new relationship to share
22 or provide business services, such as
23 financial services, marketing services,
24 maintenance, or assembly functions;
25 or

1 (vi) knowingly directing transactions
2 by foreign persons that would constitute
3 covered activity if engaged in by a United
4 States person.

5 (B) EXCEPTIONS.—The term “covered ac-
6 tivity” does not include—

7 (i) any transaction the value of which
8 the President determines is de minimis, as
9 defined in regulations prescribed in accord-
10 ance with section 6;

11 (ii) any category of transactions that
12 the President determines is in the national
13 interest of the United States, as may be
14 defined in regulations prescribed in accord-
15 ance with section 6;

16 (iii) an investment in—

17 (I) a publicly traded security (as
18 such term is defined in section
19 3(a)(10) of the Securities Exchange
20 Act of 1934); or

21 (II) an index fund, mutual fund,
22 exchange-traded fund, or a similar in-
23 strument (including associated deriva-
24 tives) offered by an investment com-
25 pany (as such term is defined in sec-

1 tion 3(a)(1) of the Investment Com-
2 pany Act of 1940), or by a private in-
3 vestment fund;

4 (III) a venture capital fund, pri-
5 vate equity fund, fund of funds, or
6 other pooled investment funds, as the
7 limited partner, in each case in which
8 the limited partner's contribution is
9 solely capital in a limited partnership
10 structure and—

11 (aa) the limited partner can-
12 not make managerial decisions, is
13 not responsible for any debts be-
14 yond its investment, and does not
15 have the ability (formally or in-
16 formally) to influence or partici-
17 pate in the fund's or a covered
18 foreign entity's decision making
19 or operations; and

20 (bb) the investment is below
21 a de minimis threshold to be de-
22 termined by the President;

23 (iv) the acquisition of the equity or
24 other interest owned or held by a covered
25 foreign entity in an entity or assets located

1 outside of a country of concern in which
2 the United States person is acquiring all
3 interests in the entity or assets held by
4 covered foreign entity;

5 (v) an intracompany transfer of funds
6 from a United States parent company to a
7 subsidiary located in a country of concern;

8 (vi) a transaction made pursuant to a
9 binding, uncalled capital commitment en-
10 tered into before the date on which the
11 regulations prescribed in accordance with
12 section 6 take effect; or

13 (vii) any ordinary or administrative
14 business transaction as may be defined in
15 such regulations.

16 (4) COVERED FOREIGN ENTITY.—Subject to
17 regulations prescribed in accordance with section 6,
18 the term “covered foreign entity” means the fol-
19 lowing:

20 (A) Any entity that is incorporated in, has
21 a principal place of business in, or is organized
22 under the laws of a country of concern.

23 (B) Any entity the equity securities of
24 which are traded in the ordinary course of busi-

1 ness on one or more exchanges in a country of
2 concern.

3 (C) Any agency or instrumentality of the
4 government of a country of concern.

5 (D) Any other entity that is not a United
6 States person and that meets such criteria as
7 may be specified by the President in such regu-
8 lations prescribed in accordance with section 6.

9 (5) COVERED SECTORS.—Subject to regulations
10 prescribed in accordance with section 6, the term
11 “covered sectors” includes sectors within the fol-
12 lowing areas:

13 (A) Semiconductors and microelectronics.

14 (B) Artificial intelligence.

15 (C) Quantum information science and
16 technology.

17 (D) Hypersonics.

18 (E) High-performance computing and
19 supercomputing.

20 (6) PARTY.—The term “party”, with respect to
21 an activity, has the meaning given that term in regu-
22 lations prescribed in accordance with section 7.

23 (7) UNITED STATES PERSON.—The term
24 “United States person” means—

1 (A) an individual who is a United States
2 citizen or an alien lawfully admitted for perma-
3 nent residence to the United States; or

4 (B) an entity organized under the laws of
5 the United States or of any jurisdiction within
6 the United States, including any foreign branch
7 of such an entity.