

115TH CONGRESS  
2D SESSION

# S. 2392

To amend the Homeland Security Act of 2002 to authorize the Secretary of Homeland Security to designate cybersecurity technologies that qualify for protection under systems of risk and litigation management.

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IN THE SENATE OF THE UNITED STATES

FEBRUARY 7, 2018

Mr. DAINES introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

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## A BILL

To amend the Homeland Security Act of 2002 to authorize the Secretary of Homeland Security to designate cybersecurity technologies that qualify for protection under systems of risk and litigation management.

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 “Cyber Support for  
5       Anti-Terrorism by Fostering Effective Technologies Act of  
6       2018” or the “Cyber SAFETY Act of 2018”.

1 **SEC. 2. INCLUSION OF QUALIFYING CYBER INCIDENTS.**

2 Subtitle G of title VIII of the Homeland Security Act  
3 of 2002 (6 U.S.C. 441 et seq.) is amended—

4 (1) in section 862(b) (6 U.S.C. 441(b))—

5 (A) in the heading, by striking “DESIGNA-  
6 TION OF QUALIFIED ANTI-TERRORISM TECH-  
7 NOLOGIES” and inserting “DESIGNATION OF  
8 ANTI-TERRORISM AND CYBERSECURITY TECH-  
9 NOLOGIES”;

10 (B) in the matter preceding paragraph (1),  
11 by inserting “or cybersecurity” after “anti-ter-  
12 rorism”;

13 (C) in paragraphs (3), (4), and (5), by in-  
14 serting “or cybersecurity” after “anti-ter-  
15 rorism” each place that term appears; and

16 (D) in paragraph (7)—

17 (i) by inserting “or cybersecurity”  
18 after “Anti-terrorism”; and

19 (ii) by inserting “or qualifying cyber  
20 incidents” after “acts of terrorism”;

21 (2) in section 863 (6 U.S.C. 442)—

22 (A) by inserting “or cybersecurity” after  
23 “anti-terrorism” each place that term appears;

24 (B) by inserting “or qualifying cyber inci-  
25 dent” after “act of terrorism” each place that  
26 term appears;

1 (C) by inserting “or qualifying cyber inci-  
2 dents” after “acts of terrorism” each place that  
3 term appears; and

4 (D) in subsection (d)(3)—

5 (i) by striking “(3) CERTIFICATE.—”  
6 and inserting the following: “(3) CERTIFI-  
7 CATES.—

8 “(A) CERTIFICATES FOR ANTI-TERRORISM  
9 TECHNOLOGIES.—”; and

10 (ii) by adding at the end the fol-  
11 lowing:

12 “(B) CERTIFICATES FOR CYBERSECURITY  
13 TECHNOLOGIES.—

14 “(i) IN GENERAL.—For cybersecurity  
15 technology reviewed and approved by the  
16 Secretary, the Secretary will issue a certifi-  
17 cate of conformance to the Seller and place  
18 the cybersecurity technology on an Ap-  
19 proved Product List for Homeland Secu-  
20 rity.

21 “(ii) SUBSEQUENT REVIEW.—Not less  
22 frequently than once every 2 years, the  
23 Secretary shall conduct a new review of  
24 any cybersecurity technology for which the

1 Secretary issued a certification under  
2 clause (i).”;

3 (3) in section 864 (6 U.S.C. 443)—

4 (A) by inserting “or cybersecurity” after  
5 “anti-terrorism” each place that term appears;  
6 and

7 (B) by inserting “or qualifying cyber inci-  
8 dent” after “act of terrorism” each place that  
9 term appears; and

10 (4) in section 865 (6 U.S.C. 444)—

11 (A) in paragraph (1)—

12 (i) in the heading, by inserting “OR  
13 CYBERSECURITY” after “ANTI-TER-  
14 RORISM”;

15 (ii) by inserting “or cybersecurity”  
16 after “anti-terrorism”;

17 (iii) by inserting “or qualifying cyber  
18 incidents” after “acts of terrorism”; and

19 (iv) by inserting “or incidents” after  
20 “such acts”; and

21 (B) by adding at the end the following:

22 “(7) QUALIFYING CYBER INCIDENT.—The term  
23 ‘qualifying cyber incident’ has the meaning given the  
24 term ‘incident’ in section 3552(b) of title 44, United  
25 States Code.

1           “(8) FINAL AGENCY ACTION.—The determina-  
2           tion by the Secretary that an act of terrorism or  
3           qualifying cyber incident has occurred shall con-  
4           stitute a final agency action subject to review under  
5           chapter 7 of title 5, United States Code.”.

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