

116TH CONGRESS
1ST SESSION

S. 1459

To control the export to the People’s Republic of China of certain technology and intellectual property important to the national interest of the United States, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 14, 2019

Mr. HAWLEY introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To control the export to the People’s Republic of China of certain technology and intellectual property important to the national interest of the United States, 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 “China Technology
5 Transfer Control Act of 2019”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

1 (1) CHINESE PERSON.—The term “Chinese
2 person” means—

3 (A) an individual who is a citizen or na-
4 tional of the People’s Republic of China; or

5 (B) an entity organized under the laws of
6 the People’s Republic of China or otherwise
7 subject to the jurisdiction of the Government of
8 the People’s Republic of China.

9 (2) COVERED NATIONAL INTEREST TECH-
10 NOLOGY OR INTELLECTUAL PROPERTY.—The term
11 “covered national interest technology or intellectual
12 property” includes the following:

13 (A) Technology or intellectual property
14 that would make a significant contribution to
15 the military potential of the People’s Republic
16 of China that would prove detrimental to the
17 national security of the United States.

18 (B) Technology or intellectual property
19 necessary to protect the economy of the United
20 States from the excessive drain of scarce mate-
21 rials and to reduce the serious inflationary im-
22 pact of demand from the People’s Republic of
23 China.

24 (C) Technology or intellectual property
25 that is a component of the production of prod-

1 ucts included in the most recent list required
2 under section 183 of the Trade Act of 1974, as
3 added by section 6(a), determined in consulta-
4 tion with the United States Trade Representa-
5 tive.

6 (D) Technology used by the Government of
7 the People’s Republic of China to carry out vio-
8 lations of human rights or religious liberties.

9 (3) FOREIGN PERSON.—The term “foreign per-
10 son” means any person that is not a United States
11 person.

12 (4) KNOWINGLY.—The term “knowingly”, with
13 respect to conduct, a circumstance, or a result,
14 means that a person has actual knowledge, or should
15 have known, of the conduct, the circumstance, or the
16 result.

17 (5) INTELLECTUAL PROPERTY.—The term “in-
18 tellectual property” means—

19 (A) any work protected by a copyright
20 under title 17, United States Code;

21 (B) any property protected by a patent
22 granted by the United States Patent and
23 Trademark Office under title 35, United States
24 Code;

1 (C) any word, name, symbol, or device, or
2 any combination thereof, that is registered as a
3 trademark with the United States Patent and
4 Trademark Office under the Act entitled “An
5 Act to provide for the registration and protec-
6 tion of trademarks used in commerce, to carry
7 out the provisions of certain international con-
8 ventions, and for other purposes”, approved
9 July 5, 1946 (commonly known as the
10 “Lanham Act” or the “Trademark Act of
11 1946”) (15 U.S.C. 1051 et seq.);

12 (D) a trade secret (as defined in section
13 1839 of title 18, United States Code); or

14 (E) any other form of intellectual property.

15 (6) TECHNOLOGY.—The term “technology” in-
16 cludes goods or services relating to information sys-
17 tems, Internet-based services, production-enhancing
18 logistics, robotics, artificial intelligence, biotechnolo-
19 gy, or computing.

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

22 (A) a United States citizen or an alien law-
23 fully admitted for permanent residence to the
24 United States; or

1 (B) an entity organized under the laws of
2 the United States or of any jurisdiction within
3 the United States, including a foreign branch of
4 such an entity.

5 **SEC. 3. SENSE OF CONGRESS.**

6 It is the sense of Congress that—

7 (1) while the United States is committed to
8 promoting cultural and technological exchange with
9 other countries, it is our responsibility to protect the
10 United States when channels for such exchange are
11 exploited by adversaries; and

12 (2) the People's Republic of China consistently
13 seeks to exploit those channels, not only in its theft
14 of intellectual property but also in its manipulation
15 of lawful transfer and uses of technology in ways
16 that directly support its military objectives and
17 threaten the United States.

18 **SEC. 4. CONTROL OF EXPORT OF COVERED NATIONAL IN-**
19 **TEREST TECHNOLOGY AND INTELLECTUAL**
20 **PROPERTY TO THE PEOPLE'S REPUBLIC OF**
21 **CHINA.**

22 (a) IN GENERAL.—On and after the date that is 180
23 days after the date of the enactment of this Act, the Presi-
24 dent shall control the export or re-export to, or transfer
25 in, the People's Republic of China of any covered national

1 interest technology or intellectual property subject to the
2 jurisdiction of the United States or exported by any
3 United States person.

4 (b) REPORT REQUIRED.—Not later than 90 days
5 after the date of the enactment of this Act, the Secretary
6 of State and the Secretary of Commerce shall jointly sub-
7 mit to Congress a report assessing whether covered na-
8 tional interest technology or intellectual property should
9 be controlled as required by subsection (a) under—

10 (1) the International Traffic in Arms Regula-
11 tions under subchapter M of chapter I of title 22,
12 Code of Federal Regulations; or

13 (2) the Export Administration Regulations
14 under subchapter C of chapter VII of title 15, Code
15 of Federal Regulations.

16 (c) REGULATIONS.—Not later than 180 days after
17 the date of the enactment of this Act, the President shall
18 prescribe such regulations as are necessary to carry out
19 subsection (a).

1 **SEC. 5. IMPOSITION OF SANCTIONS WITH RESPECT TO PRO-**
2 **VISION TO OR PURCHASE FROM THE PEO-**
3 **PLE'S REPUBLIC OF CHINA OF COVERED NA-**
4 **TIONAL INTEREST TECHNOLOGY AND INTEL-**
5 **LECTUAL PROPERTY.**

6 (a) IN GENERAL.—The President shall, pursuant to
7 the International Emergency Economic Powers Act (50
8 U.S.C. 1701 et seq.), block and prohibit all transactions
9 in all property and interests in property of a person de-
10 scribed in subsection (b) if such property and interests in
11 property are in the United States, come within the United
12 States, or are or come within the possession or control
13 of a United States person.

14 (b) PERSONS DESCRIBED.—A person described in
15 this subsection is—

16 (1) a foreign person that, on or after the date
17 of the enactment of this Act, knowingly sells or oth-
18 erwise provides to, or knowingly purchases from, the
19 People's Republic of China any covered national in-
20 terest technology or intellectual property subject to
21 the jurisdiction of the United States; or

22 (2) a Chinese person that, on or after such date
23 of enactment, knowingly uses covered national inter-
24 est technology or intellectual property provided to
25 the Chinese person in violation of section 4 or any
26 other export control law of the United States.

1 (c) EXCEPTION RELATING TO IMPORTATION OF
2 GOODS.—

3 (1) IN GENERAL.—The requirement to block
4 and prohibit all transactions in all property and in-
5 terests in property under subsection (a) shall not in-
6 clude the authority to impose sanctions on the im-
7 portation of goods.

8 (2) GOOD DEFINED.—In this subsection, the
9 term “good” means any article, natural or man-
10 made substance, material, supply or manufactured
11 product, including inspection and test equipment,
12 and excluding technical data.

13 (d) WAIVER.—The President may waive the imposi-
14 tion of sanctions under subsection (a) with respect to a
15 person if the President determines and reports to Con-
16 gress that the waiver is in the national security interests
17 of the United States.

18 (e) IMPLEMENTATION; PENALTIES.—

19 (1) IMPLEMENTATION.—The President may ex-
20 ercise all authorities provided under sections 203
21 and 205 of the International Emergency Economic
22 Powers Act (50 U.S.C. 1702 and 1704) to carry out
23 this section.

24 (2) PENALTIES.—A person that violates, at-
25 tempts to violate, conspires to violate, or causes a

violation of subsection (a) or any regulation, license, or order issued to carry out that subsection shall be subject to the penalties set forth in subsections (b) and (c) of section 206 of the International Emergency Economic Powers Act (50 U.S.C. 1705) to the same extent as a person that commits an unlawful act described in subsection (a) of that section.

(3) INAPPLICABILITY OF NATIONAL EMERGENCY REQUIREMENT.—The requirements of section 202 of the International Emergency Economic Powers Act (50 U.S.C. 1701) shall not apply for purposes of this section.

SEC. 6. ESTABLISHMENT OF LIST OF CERTAIN PRODUCTS RECEIVING SUPPORT FROM THE GOVERNMENT OF THE PEOPLE’S REPUBLIC OF CHINA OR USED BY THAT GOVERNMENT FOR HUMAN RIGHTS VIOLATIONS.

(a) IN GENERAL.—Chapter 8 of title I of the Trade Act of 1974 (19 U.S.C. 2241 et seq.) is amended by adding at the end the following:

1 **“SEC. 183. LIST OF CERTAIN PRODUCTS RECEIVING SUP-**
2 **PORT FROM THE GOVERNMENT OF THE PEO-**
3 **PLE’S REPUBLIC OF CHINA OR USED BY THAT**
4 **GOVERNMENT FOR HUMAN RIGHTS VIOLA-**
5 **TIONS.**

6 “(a) IN GENERAL.—Not later than 120 days after
7 the date of the enactment of the China Technology Trans-
8 fer Control Act of 2019, and annually thereafter, the
9 United States Trade Representative shall set forth a list
10 of products manufactured or produced in, or exported
11 from, the People’s Republic of China that are determined
12 by—

13 “(1) the Trade Representative—

14 “(A) to receive support from the Govern-
15 ment of the People’s Republic of China pursu-
16 ant to the Made in China 2025 industrial policy
17 of that Government; or

18 “(B) to otherwise receive support from
19 that Government and that have or will in the
20 future displace net exports of like products by
21 the United States; or

22 “(2) the Secretary of State to be used by the
23 Government of the People’s Republic of China to
24 carry out violations of human rights or religious lib-
25 erties.

1 “(b) IDENTIFICATION OF PRODUCTS RECEIVING
2 SUPPORT PURSUANT TO MADE IN CHINA 2025 POLICY.—

3 “(1) IN GENERAL.—The Trade Representative
4 shall include in the list under subsection (a)(1)(A)
5 any product specified in the following documents set
6 forth by the Government of the People’s Republic of
7 China:

8 “(A) Notice on Issuing Made in China
9 2025.

10 “(B) China Manufacturing 2025.

11 “(C) Notice on Issuing the 13th Five-Year
12 National Strategic Emerging Industries Devel-
13 opment Plan.

14 “(D) Guiding Opinion on Promoting Inter-
15 national Industrial Capacity and Equipment
16 Manufacturing Cooperation.

17 “(E) Any other document that expresses a
18 national strategy or stated goal in connection
19 with the Made in China 2025 industrial policy
20 set forth by the Government of the People’s Re-
21 public of China, the Communist Party of China,
22 or another entity or individual capable of im-
23 pacting the national strategy of the People’s
24 Republic of China.

1 “(2) INCLUDED PRODUCTS.—In addition to
2 such products as the Trade Representative shall in-
3 clude pursuant to paragraph (1) in the list under
4 subsection (a)(1)(A), the Trade Representative shall
5 include products in the following industries:

6 “(A) Civil aircraft.

7 “(B) Turbine engines.

8 “(C) Motor car and vehicle.

9 “(D) Advanced medical equipment.

10 “(E) Advanced construction equipment.

11 “(F) Agricultural machinery.

12 “(G) Railway equipment.

13 “(H) Diesel locomotive.

14 “(I) Moving freight.

15 “(J) Semiconductor.

16 “(K) Lithium battery manufacturing.

17 “(L) Artificial intelligence.

18 “(M) High-capacity computing.

19 “(N) Quantum computing.

20 “(O) Robotics.

21 “(P) Biotechnology.”.

22 (b) CLERICAL AMENDMENT.—The table of contents
23 for the Trade Act of 1974 is amended by inserting after
24 the item relating to section 182 the following:

“Sec. 183. List of certain products receiving support from the Government of the People’s Republic of China or used by that Government for human rights violations.”.

