

117TH CONGRESS
1ST SESSION

S. 2062

To increase the security of United States rail infrastructure along the North American Interchange Service to the direct and indirect supply of U.S. military and related institutions, to facilitate cross-border trade among the United States, Mexico, or Canada, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 15, 2021

Mr. CORNYN (for himself and Ms. BALDWIN) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To increase the security of United States rail infrastructure along the North American Interchange Service to the direct and indirect supply of U.S. military and related institutions, to facilitate cross-border trade among the United States, Mexico, or Canada, 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 TITLES.**

4 This Act may be cited as the “Stopping America’s
5 Foreign Enemies Through Rail And Infrastructure Na-
6 tional Security Act” or the “SAFE TRAINS Act”.

1 **SEC. 2. REQUIREMENTS FOR RAILROAD FREIGHT CARS EN-**
 2 **TERING SERVICE IN THE UNITED STATES.**

3 (a) IN GENERAL.—Chapter 207 of title 49, United
 4 States Code, is amended by adding at the end the fol-
 5 lowing:

6 **“§ 20704. Requirements for railroad freight cars en-**
 7 **tering service in the United States**

8 “(a) DEFINITIONS.—In this section:

9 “(1) COMPONENT.—The term ‘component’
 10 means a part or subassembly of a railroad freight
 11 car.

12 “(2) CONTROL.—The term ‘control’ means the
 13 power, whether direct or indirect and whether or not
 14 exercised, through the ownership of a majority or a
 15 dominant minority of the total outstanding voting
 16 interest in an entity, representation on the board of
 17 directors of an entity, proxy voting on the board of
 18 directors of an entity, a special share in the entity,
 19 a contractual arrangement with the entity, a formal
 20 or informal arrangement to act in concert with an
 21 entity, or any other means, to determine, direct,
 22 make decisions, or cause decisions to be made for
 23 the entity.

24 “(3) COST OF SENSITIVE TECHNOLOGY.—The
 25 term ‘cost of sensitive technology’ means the aggre-

1 gate cost of the sensitive technology located on a
2 railroad freight car.

3 “(4) COUNTRY OF CONCERN.—The term ‘country
4 of concern’ means a country that—

5 “(A) is identified by the Department of
6 Commerce as a nonmarket economy country (as
7 defined in section 771(18) of the Tariff Act of
8 1930 (19 U.S.C. 1677(18))) as of the date of
9 the enactment of the SAFE TRAINS Act;

10 “(B) was identified by the United States
11 Trade Representative in the most recent report
12 required under section 182 of the Trade Act of
13 1974 (19 U.S.C. 2242) as a foreign country in-
14 cluded on the priority watch list (as defined in
15 subsection (g)(3) of such section); and

16 “(C) is subject to monitoring by the Trade
17 Representative under section 306 of the Trade
18 Act of 1974 (19 U.S.C. 2416).

19 “(5) NET COST.—The term ‘net cost’ has the
20 meaning given such term in chapter 4 of the
21 USMCA or in any subsequent free trade agreement
22 between the United States, Mexico, and Canada.

23 “(6) QUALIFIED FACILITY.—The term ‘quali-
24 fied facility’ means a facility that is not owned or
25 under the control of a state-owned enterprise.

1 “(7) QUALIFIED MANUFACTURER.—The term
2 ‘qualified manufacturer’ means a railroad freight car
3 manufacturer that is not owned or under the control
4 of a state-owned enterprise.

5 “(8) RAILROAD FREIGHT CAR.—The term ‘rail-
6 road freight car’ means a car designed to carry
7 freight or railroad personnel by rail, including—

8 “(A) a box car;

9 “(B) a refrigerator car;

10 “(C) a ventilator car;

11 “(D) an intermodal well car;

12 “(E) a gondola car;

13 “(F) a hopper car;

14 “(G) an auto rack car;

15 “(H) a flat car;

16 “(I) a special car;

17 “(J) a caboose car;

18 “(K) a tank car; and

19 “(L) a yard car.

20 “(9) SENSITIVE TECHNOLOGY.—The term ‘sen-
21 sitive technology’ means any device embedded with
22 electronics, software, sensors, or other connectivity,
23 that enables the device to connect to, collect data
24 from, or exchange data with another device, includ-
25 ing—

1 “(A) onboard telematics;

2 “(B) remote monitoring software;

3 “(C) firmware;

4 “(D) analytics;

5 “(E) GPS satellite and cellular location
6 tracking systems;

7 “(F) event status sensors;

8 “(G) predictive component condition and
9 performance monitoring sensors; and

10 “(H) similar sensitive technologies embed-
11 ded into freight railcar components and sub-
12 assemblies.

13 “(10) STATE-OWNED ENTERPRISE.—The term
14 ‘state-owned enterprise’ means—

15 “(A) an entity that is owned by, or under
16 the control of, a national, provincial, or local
17 government of a country of concern, or an
18 agency of such government; or

19 “(B) an individual acting under the direc-
20 tion or influence of a government or agency de-
21 scribed in subparagraph (A).

22 “(11) SUBSTANTIALLY TRANSFORMED.—The
23 term ‘substantially transformed’ means a component
24 of a railroad freight car that undergoes an applica-
25 ble change in tariff classification as a result of the

1 manufacturing process, as described in chapter 4
 2 and related annexes of the USMCA or in any subse-
 3 quent free trade agreement between the United
 4 States, Mexico, and Canada.

5 “(12) USMCA.—The term ‘USMCA’ has the
 6 meaning given such term in section 3 of the United
 7 States-Mexico-Canada Agreement Implementation
 8 Act (19 U.S.C. 4502).

9 “(b) REQUIREMENTS FOR RAILROAD FREIGHT CARS
 10 ENTERING SERVICE IN THE UNITED STATES.—

11 “(1) LIMITATION ON RAILROAD FREIGHT
 12 CARS.—A railroad freight car wholly manufactured
 13 on or after the date that is 1 year after the date of
 14 the enactment of the SAFE TRAINS Act may only
 15 operate on the United States freight railroad inter-
 16 change system if—

17 “(A) the railroad freight car is manufac-
 18 tured, assembled, and substantially trans-
 19 formed, as applicable, by a qualified manufac-
 20 turer in a qualified facility;

21 “(B) none of the sensitive technology lo-
 22 cated on the railroad freight car, including com-
 23 ponents necessary to the functionality of the
 24 sensitive technology, originates from a country

1 of concern or is sourced from a state-owned en-
 2 terprise; and

3 “(C) none of the content of the railroad
 4 freight car, excluding sensitive technology,
 5 originates from a country of concern or is
 6 sourced from a state-owned enterprise that has
 7 been determined by a recognized court or ad-
 8 ministrative agency of competent jurisdiction
 9 and legal authority to have violated or infringed
 10 valid United States intellectual property rights
 11 of another, including such a finding by a Fed-
 12 eral district court under title 35 or the United
 13 States International Trade Commission under
 14 section 337 of the Tariff Act of 1930 (19
 15 U.S.C. 1337).

16 “(2) LIMITATION ON RAILROAD FREIGHT CAR
 17 CONTENT.—

18 “(A) PERCENTAGE LIMITATION.—Not
 19 later than 1 year after the date of the enact-
 20 ment of the SAFE TRAINS Act, a railroad
 21 freight car may operate on the United States
 22 freight railroad interchange system only if—

23 “(i) not more than 20 percent of the
 24 content of the railroad freight car, cal-
 25 culated by the net cost of all components

1 of the car and excluding the cost of sen-
2 sitive technology, originates from a country
3 of concern or is sourced from a state-
4 owned enterprise; or

5 “(ii) not later than 2 years after the
6 date of the enactment of the SAFE
7 TRAINS Act, the percentage described in
8 clause (i) is not more than 15 percent.

9 “(B) CONFLICT.—The percentages speci-
10 fied in subparagraph (A) shall apply notwith-
11 standing any apparent conflict with the provi-
12 sions of chapter 4 of the USMCA.

13 “(c) REGULATIONS AND PENALTIES.—

14 “(1) REGULATIONS REQUIRED.—Not later than
15 1 year after the date of the enactment of the SAFE
16 TRAINS Act, the Secretary of Transportation shall
17 issue such regulations as are necessary to carry out
18 this section, including regulations necessary for the
19 monitoring, enforcement, and sensitive technology
20 requirements under this section.

21 “(2) CERTIFICATION REQUIRED.—To be eligible
22 to provide a railroad freight car for operation on the
23 United States freight railroad interchange system,
24 the manufacturer of such car shall annually certify

1 to the Secretary that any railroad freight cars so
2 provided meets the requirements under this section.

3 “(3) COMPLIANCE.—

4 “(A) VALID CERTIFICATION REQUIRED.—

5 At the time a railroad freight car begins oper-
6 ation on the United States freight railroad
7 interchange system, the manufacturer of such
8 railroad freight car shall have valid certification
9 described in paragraph (2) for the year in
10 which such car begins operation.

11 “(B) REGISTRATION OF NONCOMPLIANT

12 CARS PROHIBITED.—A railroad freight car
13 manufacturer may not register, or cause to be
14 registered, a railroad freight car that does not
15 comply with the requirements under this section
16 in the Association of American Railroad’s
17 Umler system.

18 “(4) CIVIL PENALTIES.—

19 “(A) IN GENERAL.—A railroad freight car

20 manufacturer that has manufactured a railroad
21 freight car for operation on the United States
22 freight railroad interchange system that the
23 Secretary of Transportation determines, after
24 written notice and an opportunity for a hearing,
25 has violated this section is liable to the United

1 States Government for a civil penalty of at least
 2 \$100,000, but not more than \$250,000, for
 3 each such violation for each railroad freight car.

4 “(B) PROHIBITION FOR VIOLATIONS.—The
 5 Secretary of Transportation may prohibit a rail-
 6 road freight car manufacturer with respect to
 7 which the Secretary has assessed more than 3
 8 violations under subparagraph (A) from pro-
 9 viding additional railroad freight cars for oper-
 10 ation on the United States freight railroad
 11 interchange system until the Secretary deter-
 12 mines—

13 “(i) such manufacturer is in compli-
 14 ance with this section; and

15 “(ii) all civil penalties assessed to
 16 such manufacturer pursuant to subpara-
 17 graph (A) have been paid in full.”.

18 (b) CLERICAL AMENDMENT.—The chapter analysis
 19 for chapter 207 of title 49, United States Code, is amend-
 20 ed by adding at the end the following:

“20704. Requirements for railroad freight cars entering service in the United States.”.

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