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H. R. 57

To regulate or prohibit transactions using mobile applications or software programs that engage in the theft of user data on behalf of a communist country, foreign adversary, or state sponsor of terrorism, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 9, 2023

Mr. BERGMAN introduced the following bill; which was referred to the Committee on Foreign Affairs, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To regulate or prohibit transactions using mobile applications or software programs that engage in the theft of user data on behalf of a communist country, foreign adversary, or state sponsor of terrorism, 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 “Protecting Personal
5 Data from Foreign Adversaries Act”.

1 **SEC. 2. AUTHORITIES TO REGULATE OR PROHIBIT TRANS-**
2 **ACTIONS USING MOBILE APPLICATIONS OR**
3 **SOFTWARE PROGRAMS THAT ENGAGE IN THE**
4 **THEFT OF USER DATA ON BEHALF OF A COM-**
5 **MUNIST COUNTRY, FOREIGN ADVERSARY, OR**
6 **STATE SPONSOR OF TERRORISM.**

7 Section 203 of the International Emergency Eco-
8 nomic Powers Act (50 U.S.C. 1702) is amended—

9 (1) by redesignating subsection (c) as sub-
10 section (d); and

11 (2) by inserting after subsection (b) the fol-
12 lowing new subsection:

13 “(c)(1) Notwithstanding subsection (b), the authority
14 granted to the President by this section includes the au-
15 thority to regulate or prohibit transactions using mobile
16 applications or software programs that—

17 “(A) engage in the theft of or transmits a
18 user’s data in an unauthorized manner; and

19 “(B) provide to a covered country, or covered
20 foreign political party, access to such data.

21 “(2) In this subsection, the term ‘covered country’
22 means any of the following:

23 “(A) A Communist country.

24 “(B) A foreign adversary.

25 “(C) A state sponsor of terrorism.

26 “(3) In this subsection:

1 “(A) The term ‘communist country’ has the
2 meaning given such term in section 620(f)(1) of the
3 Foreign Assistance Act of 1961 (22 U.S.C.
4 2370(f)(1)).

5 “(B) The term ‘foreign adversary’ has the
6 meaning given such term in Executive Order 13920,
7 issued on May 1, 2020, entitled ‘Securing the
8 United States BulkPower System’, and including the
9 list of foreign adversaries identified by the Depart-
10 ment of Energy’s Office of Electricity pursuant to
11 such Executive Order on July 7, 2020, as in effect
12 on January 19, 2021.

13 “(C) The term ‘state sponsor of terrorism’
14 means a country the government of which the Sec-
15 retary of State determines has repeatedly provided
16 support for international terrorism pursuant to—

17 “(i) section 1754(c)(1)(A) of the Export
18 Control Reform Act of 2018 (50 U.S.C.
19 4813(c)(1)(A));

20 “(ii) section 620A of the Foreign Assist-
21 ance Act of 1961 (22 U.S.C. 2371);

22 “(iii) section 40 of the Arms Export Con-
23 trol Act (22 U.S.C. 2780); or

24 “(iv) any other provision of law.

1 “(4) In this subsection, the term ‘covered for-
2 eign political party’ means the Chinese Communist
3 Party (CCP).”.

4 **SEC. 3. IMPOSITION OF SANCTIONS WITH RESPECT TO MO-**
5 **BILE APPLICATIONS OR SOFTWARE PRO-**
6 **GRAMS THAT ENGAGE IN THE THEFT OF**
7 **USER DATA.**

8 (a) IMPOSITION OF SANCTIONS.—Notwithstanding
9 any other provision of law, the President is authorized to
10 impose the sanctions described in subsection (b) with re-
11 spect to any foreign person that the President determines
12 has developed, maintains, provides, owns, or controls a
13 mobile application or software program that—

14 (1) engages in the theft of or transmits a user’s
15 data in an unauthorized manner to servers located
16 in China; and

17 (2) provides to the Government of the People’s
18 Republic of China (PRC), the Chinese Communist
19 Party (CCP), or any person owned by or controlled
20 by the PRC or CCP access to such data.

21 (b) SANCTIONS DESCRIBED.—

22 (1) IN GENERAL.—The sanctions described in
23 this subsection with respect to a foreign person de-
24 termined by the President to be subject to sub-
25 section (a) are the following:

1 (A) ASSET BLOCKING.—The President
2 shall exercise all powers granted to the Presi-
3 dent by the International Emergency Economic
4 Powers Act (50 U.S.C. 1701 et seq.) to the ex-
5 tent necessary to block and prohibit all trans-
6 actions in property and interests in property of
7 the foreign person if such property and inter-
8 ests in property are in the United States, come
9 within the United States, or are or come within
10 the possession or control of a United States
11 person.

12 (B) INADMISSIBILITY OF CERTAIN INDI-
13 VIDUALS.—

14 (i) INELIGIBILITY FOR VISAS, ADMIS-
15 SION, OR PAROLE.—In the case of a for-
16 eign person who is an individual, the for-
17 eign person is—

18 (I) inadmissible to the United
19 States;

20 (II) ineligible to receive a visa or
21 other documentation to enter the
22 United States; and

23 (III) otherwise ineligible to be
24 admitted or paroled into the United
25 States or to receive any other benefit

1 under the Immigration and Nation-
2 ality Act (8 U.S.C. 1101 et seq.).

3 (ii) CURRENT VISAS REVOKED.—

4 (I) IN GENERAL.—In the case of
5 a foreign person who is an individual,
6 the visa or other documentation
7 issued to the person shall be revoked,
8 regardless of when such visa or other
9 documentation is or was issued.

10 (II) EFFECT OF REVOCATION.—

11 A revocation under subclause (I)
12 shall—

13 (aa) take effect immediately;

14 and

15 (bb) automatically cancel
16 any other valid visa or entry doc-
17 umentation that is in the per-
18 son's possession.

19 (2) PENALTIES.—The penalties provided for in
20 subsections (b) and (c) of section 206 of the Inter-
21 national Emergency Economic Powers Act (50
22 U.S.C. 1705) shall apply to a person that violates,
23 attempts to violate, conspires to violate, or causes a
24 violation of regulations to implement this section to
25 the same extent that such penalties apply to a per-

1 son that commits an unlawful act described in sec-
2 tion 206(a) of such Act.

3 (3) EXCEPTION TO COMPLY WITH UNITED NA-
4 TIONS HEADQUARTERS AGREEMENT.—Sanctions
5 under paragraph (1)(B) shall not apply to a foreign
6 person who is an individual if admitting the person
7 into the United States is necessary to permit the
8 United States to comply with the Agreement regard-
9 ing the Headquarters of the United Nations, signed
10 at Lake Success June 26, 1947, and entered into
11 force November 21, 1947, between the United Na-
12 tions and the United States, or other applicable
13 international obligations.

14 (c) WAIVER.—The President may, on a case-by-case
15 basis and for periods not to exceed 180 days, waive the
16 application of sanctions imposed with respect to a foreign
17 person under this section if the President certifies to the
18 appropriate congressional committees not later than 15
19 days before such waiver is to take effect that the waiver
20 is vital to the national security interests of the United
21 States.

22 (d) IMPLEMENTATION AUTHORITY.—The President
23 may exercise all authorities provided to the President
24 under sections 203 and 205 of the International Emer-
25 gency Economic Powers Act (50 U.S.C. 1702 and 1704)

1 for purposes of carrying out this section. The exceptions
2 to the President’s authority described in section 203(b)
3 of the International Emergency Economic Powers Act, as
4 amended by section 1, shall not apply to the President’s
5 authority to exercise authorities under this section.

6 (e) SUNSET.—

7 (1) IN GENERAL.—This section shall terminate
8 on January 1, 2026.

9 (2) INAPPLICABILITY.—Paragraph (1) shall not
10 apply with respect to sanctions imposed with respect
11 to a foreign person under this section before Janu-
12 ary 1, 2026.

13 (f) DEFINITIONS.—In this section:

14 (1) ADMITTED; ALIEN.—The terms “admitted”
15 and “alien” have the meanings given those terms in
16 section 101(3) of the Immigration and Nationality
17 Act (8 U.S.C. 1101(3)).

18 (2) APPROPRIATE CONGRESSIONAL COMMIT-
19 TEES.—The term “appropriate congressional com-
20 mittees” means—

21 (A) the Committee on Foreign Affairs, the
22 Committee on the Judiciary, the Committee on
23 Ways and Means, and the Committee on Finan-
24 cial Services of the House of Representatives;
25 and

1 (B) the Committee on Foreign Relations
2 and the Committee on Banking, Housing, and
3 Urban Affairs of the Senate.

4 (3) FOREIGN PERSON.—The term “foreign per-
5 son” means a person that is not a United States
6 person.

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

9 (A) a United States citizen or an alien law-
10 fully admitted for permanent residence to the
11 United States; or

12 (B) an entity organized under the laws of
13 the United States or of any jurisdiction of the
14 United States, including a foreign branch of
15 such an entity.

16 **SEC. 4. DETERMINATION WITH RESPECT TO THE IMPOSI-**
17 **TION OF SANCTIONS ON WECHAT AND**
18 **TIKTOK.**

19 (a) DETERMINATION.—Not later than 90 days after
20 the date of the enactment of this Act, the Secretary of
21 State shall submit to the appropriate congressional com-
22 mittees a determination, including a detailed justification
23 therefor, regarding whether WeChat, or any component
24 thereof, or any entity owned or controlled by WeChat, or
25 TikTok, or any component thereof, or any entity owned

1 or controlled by TikTok, satisfies the criteria for the appli-
2 cation of sanctions pursuant to—

3 (1) section 2 of this Act; or

4 (2) Executive Order 13694 (50 U.S.C. 1701
5 note; relating to blocking property of certain persons
6 engaged in significant malicious cyber-enabled activi-
7 ties).

8 (b) FORM.—The determination required by sub-
9 section (a) shall be submitted in unclassified form but may
10 contain a classified annex.

11 (c) APPROPRIATE CONGRESSIONAL COMMITTEES DE-
12 FINED.—In this section, the term “appropriate congres-
13 sional committees” means—

14 (1) the Committee on Armed Services, the
15 Committee on Foreign Affairs, the Permanent Select
16 Committee on Intelligence, the Committee on Finan-
17 cial Services, and the Committee on the Judiciary of
18 the House of Representatives; and

19 (2) the Committee on Armed Services, the
20 Committee on Foreign Relations, the Select Com-
21 mittee on Intelligence, the Committee on Banking,
22 Housing, and Urban Affairs, and the Committee on
23 the Judiciary of the Senate.

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