

Calendar No. 190

118TH CONGRESS
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S. 473

[Report No. 118-87]

To provide for drone security.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 16, 2023

Mr. SCOTT of Florida (for himself, Mr. WARNER, Mr. RUBIO, Mr. BLUMENTHAL, Mrs. BLACKBURN, Mr. MURPHY, Mr. HAWLEY, and Mr. ROMNEY) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

AUGUST 22, 2023

Reported under authority of the order of the Senate of July 27, 2023, by Mr. PETERS, without amendment

A BILL

To provide for drone security.

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 “American Security
5 Drone Act of 2023”.

1 **SEC. 2. DEFINITIONS.**

2 In this Act:

3 (1) COVERED FOREIGN ENTITY.—The term
4 “covered foreign entity” means an entity included on
5 a list developed and maintained by the Federal Ac-
6 quisition Security Council and published in the Sys-
7 tem for Award Management (SAM). This list will in-
8 clude entities in the following categories:

9 (A) An entity included on the Consolidated
10 Screening List.

11 (B) Any entity that is subject to
12 extrajudicial direction from a foreign govern-
13 ment, as determined by the Secretary of Home-
14 land Security.

15 (C) Any entity the Secretary of Homeland
16 Security, in coordination with the Attorney
17 General, Director of National Intelligence, and
18 the Secretary of Defense, determines poses a
19 national security risk.

20 (D) Any entity domiciled in the People’s
21 Republic of China or subject to influence or
22 control by the Government of the People’s Re-
23 public of China or the Communist Party of the
24 People’s Republic of China, as determined by
25 the Secretary of Homeland Security.

(E) Any subsidiary or affiliate of an entity described in subparagraphs (A) through (D).

13 SEC. 3. PROHIBITION ON PROCUREMENT OF COVERED UN-

14 MANNED AIRCRAFT SYSTEMS FROM COV-

15 ERED FOREIGN ENTITIES.

16 (a) IN GENERAL.—Except as provided under sub-
17 sections (b) through (f), the head of an executive agency
18 may not procure any covered unmanned aircraft system
19 that is manufactured or assembled by a covered foreign
20 entity, which includes associated elements related to the
21 collection and transmission of sensitive information (con-
22 sisting of communication links and the components that
23 control the unmanned aircraft) that enable the operator
24 to operate the aircraft in the National Airspace System.
25 The Federal Acquisition Security Council, in coordination

1 with the Secretary of Transportation, shall develop and
2 update a list of associated elements.

3 (b) EXEMPTION.—The Secretary of Homeland Secu-
4 rity, the Secretary of Defense, the Director of National
5 Intelligence, and the Attorney General are exempt from
6 the restriction under subsection (a) if the procurement is
7 required in the national interest of the United States
8 and—

9 (1) is for the sole purposes of research, evalua-
10 tion, training, testing, or analysis for electronic war-
11 fare, information warfare operations, cybersecurity,
12 or development of unmanned aircraft system or
13 counter-unmanned aircraft system technology;

14 (2) is for the sole purposes of conducting
15 counterterrorism or counterintelligence activities,
16 protective missions, or Federal criminal or national
17 security investigations, including forensic examina-
18 tions, or for electronic warfare, information warfare
19 operations, cybersecurity, or development of an un-
20 manned aircraft system or counter-unmanned air-
21 craft system technology; or

22 (3) is an unmanned aircraft system that, as
23 procured or as modified after procurement but be-
24 fore operational use, can no longer transfer to, or
25 download data from, a covered foreign entity and

1 otherwise poses no national security cybersecurity
2 risks as determined by the exempting official.

3 (c) DEPARTMENT OF TRANSPORTATION AND FED-
4 ERAL AVIATION ADMINISTRATION EXEMPTION.—The
5 Secretary of Transportation is exempt from the restriction
6 under subsection (a) if the operation or procurement is
7 deemed to support the safe, secure, or efficient operation
8 of the National Airspace System or maintenance of public
9 safety, including activities carried out under the Federal
10 Aviation Administration’s Alliance for System Safety of
11 UAS through Research Excellence (ASSURE) Center of
12 Excellence (COE) and any other activity deemed to sup-
13 port the safe, secure, or efficient operation of the National
14 Airspace System or maintenance of public safety, as deter-
15 mined by the Secretary or the Secretary’s designee.

16 (d) NATIONAL TRANSPORTATION SAFETY BOARD
17 EXEMPTION.—The National Transportation Safety
18 Board, in consultation with the Secretary of Homeland Se-
19 curity, is exempt from the restriction under subsection (a)
20 if the operation or procurement is necessary for the sole
21 purpose of conducting safety investigations.

22 (e) NATIONAL OCEANIC AND ATMOSPHERIC ADMIN-
23 ISTRATION EXEMPTION.—The Administrator of the Na-
24 tional Oceanic and Atmospheric Administration (NOAA),
25 in consultation with the Secretary of Homeland Security,

1 is exempt from the restriction under subsection (a) if the
2 procurement is necessary for the purpose of meeting
3 NOAA's science or management objectives or operational
4 mission.

5 (f) WAIVER.—The head of an executive agency may
6 waive the prohibition under subsection (a) on a case-by-
7 case basis—

8 (1) with the approval of the Director of the Of-
9 fice of Management and Budget, after consultation
10 with the Federal Acquisition Security Council; and
11 (2) upon notification to—

12 (A) the Committee on Homeland Security
13 and Governmental Affairs of the Senate;

14 (B) the Committee on Oversight and Re-
15 form in the House of Representatives; and

16 (C) other appropriate congressional com-
17 mittees of jurisdiction.

18 **SEC. 4. PROHIBITION ON OPERATION OF COVERED UN-**
19 **MANNED AIRCRAFT SYSTEMS FROM COV-**
20 **ERED FOREIGN ENTITIES.**

21 (a) PROHIBITION.—

22 (1) IN GENERAL.—Beginning on the date that
23 is two years after the date of the enactment of this
24 Act, no Federal department or agency may operate

1 a covered unmanned aircraft system manufactured
2 or assembled by a covered foreign entity.

3 (2) APPLICABILITY TO CONTRACTED SERV-
4 ICES.—The prohibition under paragraph (1) applies
5 to any covered unmanned aircraft systems that are
6 being used by any executive agency through the
7 method of contracting for the services of covered un-
8 manned aircraft systems.

9 (b) EXEMPTION.—The Secretary of Homeland Secu-
10 rity, the Secretary of Defense, the Director of National
11 Intelligence, and the Attorney General are exempt from
12 the restriction under subsection (a) if the operation is re-
13 quired in the national interest of the United States and—

14 (1) is for the sole purposes of research, evalua-
15 tion, training, testing, or analysis for electronic war-
16 fare, information warfare operations, cybersecurity,
17 or development of unmanned aircraft system or
18 counter-unmanned aircraft system technology;

19 (2) is for the sole purposes of conducting
20 counterterrorism or counterintelligence activities,
21 protective missions, or Federal criminal or national
22 security investigations, including forensic examina-
23 tions, or for electronic warfare, information warfare
24 operations, cybersecurity, or development of an un-

1 manned aircraft system or counter-unmanned air-
2 craft system technology; or

3 (3) is an unmanned aircraft system that, as
4 procured or as modified after procurement but be-
5 fore operational use, can no longer transfer to, or
6 download data from, a covered foreign entity and
7 otherwise poses no national security cybersecurity
8 risks as determined by the exempting official.

9 (c) DEPARTMENT OF TRANSPORTATION AND FED-
10 ERAL AVIATION ADMINISTRATION EXEMPTION.—The
11 Secretary of Transportation is exempt from the restriction
12 under subsection (a) if the operation is deemed to support
13 the safe, secure, or efficient operation of the National Air-
14 space System or maintenance of public safety, including
15 activities carried out under the Federal Aviation Adminis-
16 tration’s Alliance for System Safety of UAS through Re-
17 search Excellence (ASSURE) Center of Excellence (COE)
18 and any other activity deemed to support the safe, secure,
19 or efficient operation of the National Airspace System or
20 maintenance of public safety, as determined by the Sec-
21 retary or the Secretary’s designee.

22 (d) NATIONAL TRANSPORTATION SAFETY BOARD
23 EXEMPTION.—The National Transportation Safety
24 Board, in consultation with the Secretary of Homeland Se-
25 curity, is exempt from the restriction under subsection (a)

1 if the operation is necessary for the sole purpose of con-
2 ducting safety investigations.

3 (e) NATIONAL OCEANIC AND ATMOSPHERIC ADMIN-
4 ISTRATION EXEMPTION.—The Administrator of the Na-
5 tional Oceanic and Atmospheric Administration (NOAA),
6 in consultation with the Secretary of Homeland Security,
7 is exempt from the restriction under subsection (a) if the
8 procurement is necessary for the purpose of meeting
9 NOAA's science or management objectives or operational
10 mission.

11 (f) WAIVER.—The head of an executive agency may
12 waive the prohibition under subsection (a) on a case-by-
13 case basis—

14 (1) with the approval of the Director of the Of-
15 fice of Management and Budget, after consultation
16 with the Federal Acquisition Security Council; and

17 (2) upon notification to—

18 (A) the Committee on Homeland Security
19 and Governmental Affairs of the Senate;

20 (B) the Committee on Oversight and Re-
21 form in the House of Representatives; and

22 (C) other appropriate congressional com-
23 mittees of jurisdiction.

24 (g) REGULATIONS AND GUIDANCE.—Not later than
25 180 days after the date of the enactment of this Act, the

1 Secretary of Homeland Security, in consultation with the
2 Attorney General and the Secretary of Transportation,
3 shall prescribe regulations or guidance to implement this
4 section.

5 **SEC. 5. PROHIBITION ON USE OF FEDERAL FUNDS FOR**
6 **PROCUREMENT AND OPERATION OF COV-**
7 **ERED UNMANNED AIRCRAFT SYSTEMS FROM**
8 **COVERED FOREIGN ENTITIES.**

9 (a) IN GENERAL.—Beginning on the date that is two
10 years after the date of the enactment of this Act, except
11 as provided in subsection (b), no Federal funds awarded
12 through a contract, grant, or cooperative agreement, or
13 otherwise made available may be used—

14 (1) to procure a covered unmanned aircraft sys-
15 tem that is manufactured or assembled by a covered
16 foreign entity; or
17 (2) in connection with the operation of such a
18 drone or unmanned aircraft system.

19 (b) EXEMPTION.—The Secretary of Homeland Secu-
20 rity, the Secretary of Defense, the Director of National
21 Intelligence, and the Attorney General are exempt from
22 the restriction under subsection (a) if the procurement or
23 operation is required in the national interest of the United
24 States and—

1 (1) is for the sole purposes of research, evalua-
2 tion, training, testing, or analysis for electronic war-
3 fare, information warfare operations, cybersecurity,
4 or development of unmanned aircraft system or
5 counter-unmanned aircraft system technology;

6 (2) is for the sole purposes of conducting
7 counterterrorism or counterintelligence activities,
8 protective missions, or Federal criminal or national
9 security investigations, including forensic examina-
10 tions, or for electronic warfare, information warfare
11 operations, cybersecurity, or development of an un-
12 manned aircraft system or counter-unmanned air-
13 craft system technology; or

14 (3) is an unmanned aircraft system that, as
15 procured or as modified after procurement but be-
16 fore operational use, can no longer transfer to, or
17 download data from, a covered foreign entity and
18 otherwise poses no national security cybersecurity
19 risks as determined by the exempting official.

20 (c) DEPARTMENT OF TRANSPORTATION AND FED-
21 ERAL AVIATION ADMINISTRATION EXEMPTION.—The
22 Secretary of Transportation is exempt from the restriction
23 under subsection (a) if the operation or procurement is
24 deemed to support the safe, secure, or efficient operation
25 of the National Airspace System or maintenance of public

1 safety, including activities carried out under the Federal
2 Aviation Administration's Alliance for System Safety of
3 UAS through Research Excellence (ASSURE) Center of
4 Excellence (COE) and any other activity deemed to sup-
5 port the safe, secure, or efficient operation of the National
6 Airspace System or maintenance of public safety, as deter-
7 mined by the Secretary or the Secretary's designee.

8 (d) NATIONAL OCEANIC AND ATMOSPHERIC ADMIN-
9 ISTRATION EXEMPTION.—The Administrator of the Na-
10 tional Oceanic and Atmospheric Administration (NOAA),
11 in consultation with the Secretary of Homeland Security,
12 is exempt from the restriction under subsection (a) if the
13 operation or procurement is necessary for the purpose of
14 meeting NOAA's science or management objectives or
15 operational mission.

16 (e) WAIVER.—The head of an executive agency may
17 waive the prohibition under subsection (a) on a case-by-
18 case basis—

19 (1) with the approval of the Director of the Of-
20 fice of Management and Budget, after consultation
21 with the Federal Acquisition Security Council; and

22 (2) upon notification to—

23 (A) the Committee on Homeland Security
24 and Governmental Affairs of the Senate;

5 (f) REGULATIONS.—Not later than 180 days after
6 the date of the enactment of this Act, the Federal Acquisi-
7 tion Regulatory Council shall prescribe regulations or
8 guidance, as necessary, to implement the requirements of
9 this section pertaining to Federal contracts.

10 SEC. 6. PROHIBITION ON USE OF GOVERNMENT-ISSUED
11 PURCHASE CARDS TO PURCHASE COVERED
12 UNMANNED AIRCRAFT SYSTEMS FROM COV-
13 ERED FOREIGN ENTITIES.

14 Effective immediately, Government-issued Purchase
15 Cards may not be used to procure any covered unmanned
16 aircraft system from a covered foreign entity.

17 SEC. 7. MANAGEMENT OF EXISTING INVENTORIES OF COV-
18 ERED UNMANNED AIRCRAFT SYSTEMS FROM
19 COVERED FOREIGN ENTITIES.

20 (a) IN GENERAL.—All executive agencies must ac-
21 count for existing inventories of covered unmanned air-
22 craft systems manufactured or assembled by a covered for-
23 eign entity in their personal property accounting systems,
24 within one year of the date of enactment of this Act, re-
25 gardless of the original procurement cost, or the purpose

1 of procurement due to the special monitoring and account-
2 ing measures necessary to track the items' capabilities.

3 (b) CLASSIFIED TRACKING.—Due to the sensitive na-
4 ture of missions and operations conducted by the United
5 States Government, inventory data related to covered un-
6 manned aircraft systems manufactured or assembled by
7 a covered foreign entity may be tracked at a classified
8 level, as determined by the Secretary of Homeland Secu-
9 rity or the Secretary's designee.

10 (c) EXCEPTIONS.—The Department of Defense, the
11 Department of Homeland Security, the Department of
12 Justice, the Department of Transportation, and the Na-
13 tional Oceanic and Atmospheric Administration may ex-
14 clude from the full inventory process, covered unmanned
15 aircraft systems that are deemed expendable due to mis-
16 sion risk such as recovery issues, or that are one-time-
17 use covered unmanned aircraft due to requirements and
18 low cost.

19 **SEC. 8. COMPTROLLER GENERAL REPORT.**

20 Not later than 275 days after the date of the enact-
21 ment of this Act, the Comptroller General of the United
22 States shall submit to Congress a report on the amount
23 of commercial off-the-shelf drones and covered unmanned
24 aircraft systems procured by Federal departments and
25 agencies from covered foreign entities.

1 SEC. 9. GOVERNMENT-WIDE POLICY FOR PROCUREMENT

2 OF UNMANNED AIRCRAFT SYSTEMS.

3 (a) IN GENERAL.—Not later than 180 days after the
4 date of the enactment of this Act, the Director of the Of-
5 fice of Management and Budget, in coordination with the
6 Department of Homeland Security, Department of Trans-
7 portation, the Department of Justice, and other Depart-
8 ments as determined by the Director of the Office of Man-
9 agement and Budget, and in consultation with the Na-
10 tional Institute of Standards and Technology, shall estab-
11 lish a government-wide policy for the procurement of an
12 unmanned aircraft system—

13 (1) for non-Department of Defense and non-in-
14 telligence community operations; and

15 (2) through grants and cooperative agreements
16 entered into with non-Federal entities.

17 (b) INFORMATION SECURITY.—The policy developed
18 under subsection (a) shall include the following specifica-
19 tions, which to the extent practicable, shall be based on
20 industry standards and technical guidance from the Na-
21 tional Institute of Standards and Technology, to address
22 the risks associated with processing, storing, and trans-
23 mitting Federal information in an unmanned aircraft sys-
24 tem:

25 (1) Protections to ensure controlled access to
26 an unmanned aircraft system.

1 (2) Protecting software, firmware, and hardware by ensuring changes to an unmanned aircraft system are properly managed, including by ensuring an unmanned aircraft system can be updated using a secure, controlled, and configurable mechanism.

6 (3) Cryptographically securing sensitive collected, stored, and transmitted data, including proper handling of privacy data and other controlled unclassified information.

10 (4) Appropriate safeguards necessary to protect sensitive information, including during and after use of an unmanned aircraft system.

13 (5) Appropriate data security to ensure that data is not transmitted to or stored in non-approved locations.

16 (6) The ability to opt out of the uploading, downloading, or transmitting of data that is not required by law or regulation and an ability to choose with whom and where information is shared when it is required.

21 (c) REQUIREMENT.—The policy developed under sub-section (a) shall reflect an appropriate risk-based approach to information security related to use of an unmanned aircraft system.

1 (d) REVISION OF ACQUISITION REGULATIONS.—Not
2 later than 180 days after the date on which the policy
3 required under subsection (a) is issued—

4 (1) the Federal Acquisition Regulatory Council
5 shall revise the Federal Acquisition Regulation, as
6 necessary, to implement the policy; and

7 (2) any Federal department or agency or other
8 Federal entity not subject to, or not subject solely
9 to, the Federal Acquisition Regulation shall revise
10 applicable policy, guidance, or regulations, as nec-
11 essary, to implement the policy.

12 (e) EXEMPTION.—In developing the policy required
13 under subsection (a), the Director of the Office of Man-
14 agement and Budget shall—

15 (1) incorporate policies to implement the ex-
16 emptions contained in this Act; and

17 (2) incorporate an exemption to the policy in
18 the case of a head of the procuring department or
19 agency determining, in writing, that no product that
20 complies with the information security requirements
21 described in subsection (b) is capable of fulfilling
22 mission critical performance requirements, and such
23 determination—

1 (A) may not be delegated below the level of
2 the Deputy Secretary, or Administrator, of the
3 procuring department or agency;

4 (B) shall specify—

5 (i) the quantity of end items to which
6 the waiver applies and the procurement
7 value of those items; and

8 (ii) the time period over which the
9 waiver applies, which shall not exceed three
10 years;

11 (C) shall be reported to the Office of Man-
12 agement and Budget following issuance of such
13 a determination; and

14 (D) not later than 30 days after the date
15 on which the determination is made, shall be
16 provided to the Committee on Homeland Secu-
17 rity and Governmental Affairs of the Senate
18 and the Committee on Oversight and Reform of
19 the House of Representatives.

20 **SEC. 10. STATE, LOCAL, AND TERRITORIAL LAW ENFORCE-**
21 **MENT AND EMERGENCY SERVICE EXEMP-**
22 **TION.**

23 (a) RULE OF CONSTRUCTION.—Nothing in this Act
24 shall prevent a State, local, or territorial law enforcement
25 or emergency service agency from procuring or operating

1 a covered unmanned aircraft system purchased with non-
2 Federal dollars.

3 (b) CONTINUITY OF ARRANGEMENTS.—The Federal
4 Government may continue entering into contracts, grants,
5 and cooperative agreements or other Federal funding in-
6 struments with State, local, or territorial law enforcement
7 or emergency service agencies under which a covered un-
8 manned aircraft system will be purchased or operated if
9 the agency has received approval or waiver to purchase
10 or operate a covered unmanned aircraft system pursuant
11 to section 5.

12 **SEC. 11. STUDY.**

13 (a) STUDY ON THE SUPPLY CHAIN FOR UNMANNED
14 AIRCRAFT SYSTEMS AND COMPONENTS.—

15 (1) REPORT REQUIRED.—Not later than one
16 year after the date of the enactment of this Act, the
17 Under Secretary of Defense for Acquisition and
18 Sustainment shall provide to the appropriate con-
19 gressional committees a report on the supply chain
20 for covered unmanned aircraft systems, including a
21 discussion of current and projected future demand
22 for covered unmanned aircraft systems.

23 (2) ELEMENTS.—The report under paragraph
24 (1) shall include the following:

1 (A) A description of the current and future
2 global and domestic market for covered un-
3 manned aircraft systems that are not widely
4 commercially available except from a covered
5 foreign entity.

6 (B) A description of the sustainability,
7 availability, cost, and quality of secure sources
8 of covered unmanned aircraft systems domesti-
9 cally and from sources in allied and partner
10 countries.

11 (C) The plan of the Secretary of Defense
12 to address any gaps or deficiencies identified in
13 subparagraph (B), including through the use of
14 funds available under the Defense Production
15 Act of 1950 (50 U.S.C. 4501 et seq.) and part-
16 nerships with the National Aeronautics and
17 Space Administration and other interested per-
18 sons.

19 (D) Such other information as the Under
20 Secretary of Defense for Acquisition and
21 Sustainment determines to be appropriate.

22 (3) APPROPRIATE CONGRESSIONAL COMMIT-
23 TEES DEFINED.—In this section the term “appro-
24 priate congressional committees” means:

(A) The Committees on Armed Services of
the Senate and the House of Representatives.

17 (F) The Committee on Homeland Security
18 of the House of Representatives.

19 SEC. 12. EXCEPTIONS.

20 (a) EXCEPTION FOR WILDFIRE MANAGEMENT OPER-
21 ATIONS AND SEARCH AND RESCUE OPERATIONS.—The
22 appropriate Federal agencies, in consultation with the Sec-
23 retary of Homeland Security, are exempt from the pro-
24 curement and operation restrictions under sections 3, 4,
25 and 5 to the extent the procurement or operation is nec-

1 essary for the purpose of supporting the full range of wild-
2 fire management operations or search and rescue oper-
3 ations.

4 (b) EXCEPTION FOR INTELLIGENCE ACTIVITIES.—
5 The elements of the intelligence community, in consulta-
6 tion with the Director of National Intelligence, are exempt
7 from the procurement and operation restrictions under
8 sections 3, 4, and 5 to the extent the procurement or oper-
9 ation is necessary for the purpose of supporting intel-
10 ligence activities.

11 (c) EXCEPTION FOR TRIBAL LAW ENFORCEMENT OR
12 EMERGENCY SERVICE AGENCY.—Tribal law enforcement
13 or Tribal emergency service agencies, in consultation with
14 the Secretary of Homeland Security, are exempt from the
15 procurement, operation, and purchase restrictions under
16 sections 3, 4, and 5 to the extent the procurement or oper-
17 ation is necessary for the purpose of supporting the full
18 range of law enforcement operations or search and rescue
19 operations on Indian lands.

20 **SEC. 13. SUNSET.**

21 Sections 3, 4, and 5 shall cease to have effect on the
22 date that is five years after the date of the enactment of
23 this Act.

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A BILL

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