

116TH CONGRESS
1ST SESSION

S. 846

To amend title 49, United States Code, to limit certain rolling stock procurements, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 14, 2019

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

A BILL

To amend title 49, United States Code, to limit certain rolling stock procurements, 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 “Transit Infrastructure
5 Vehicle Security Act”.

6 **SEC. 2. LIMITATION ON CERTAIN ROLLING STOCK PRO-**
7 **CUREMENTS.**

8 Section 5323 of title 49, United States Code, is
9 amended by adding at the end the following:

1 “(u) LIMITATION ON CERTAIN ROLLING STOCK PRO-
2 CUREMENTS.—

3 “(1) IN GENERAL.—Except as provided in para-
4 graph (5), financial assistance made available under
5 this chapter shall not be used in awarding a contract
6 or subcontract to an entity on or after the date of
7 enactment of this subsection for the procurement of
8 rolling stock for use in public transportation if the
9 manufacturer of the rolling stock—

10 “(A) is incorporated in or has manufac-
11 turing facilities in the United States; and

12 “(B) is owned or controlled by, is a sub-
13 sidiary of, or is otherwise related legally or fi-
14 nancially to a corporation based in a country
15 that—

16 “(i) is identified as a nonmarket econ-
17 omy country (as defined in section 771(18)
18 of the Tariff Act of 1930 (19 U.S.C.
19 1677(18))) as of the date of enactment of
20 this subsection;

21 “(ii) was identified by the United
22 States Trade Representative in the most
23 recent report required by section 182 of
24 the Trade Act of 1974 (19 U.S.C. 2242)

1 as a priority foreign country under sub-
 2 section (a)(2) of that section; and

3 “(iii) is subject to monitoring by the
 4 Trade Representative under section 306 of
 5 the Trade Act of 1974 (19 U.S.C. 2416).

6 “(2) EXCEPTION.—For purposes of paragraph
 7 (1), the term ‘otherwise related legally or financially’
 8 does not include a minority relationship or invest-
 9 ment.

10 “(3) INTERNATIONAL AGREEMENTS.—This sub-
 11 section shall be applied in a manner consistent with
 12 the obligations of the United States under inter-
 13 national agreements.

14 “(4) CERTIFICATION FOR RAIL ROLLING
 15 STOCK.—

16 “(A) IN GENERAL.—Except as provided in
 17 paragraph (5), as a condition of financial as-
 18 sistance made available in a fiscal year under
 19 section 5337, a recipient that operates rail fixed
 20 guideway service shall certify in that fiscal year
 21 that the recipient will not award any contract
 22 or subcontract for the procurement of rail roll-
 23 ing stock for use in public transportation with
 24 a rail rolling stock manufacturer described in
 25 paragraph (1).

1 “(B) SEPARATE CERTIFICATION.—The cer-
 2 tification required under this paragraph shall be
 3 in addition to any certification the Secretary es-
 4 tablishes to ensure compliance with the require-
 5 ments of paragraph (1).

6 “(5) EXCEPTION.—This subsection, including
 7 the certification requirement under paragraph (4),
 8 shall not apply to the award of a contract or sub-
 9 contract made by a public transportation agency
 10 with a rail rolling stock manufacturer described in
 11 paragraph (1) if the manufacturer and the public
 12 transportation agency have a contract for rail rolling
 13 stock that was executed before the date of enact-
 14 ment of this subsection.”.

15 **SEC. 3. CYBERSECURITY CERTIFICATION FOR RAIL ROLL-**
 16 **ING STOCK AND OPERATIONS.**

17 Section 5323 of title 49, United States Code, as
 18 amended by section 2, is amended by adding at the end
 19 the following:

20 “(v) CYBERSECURITY CERTIFICATION FOR RAIL
 21 ROLLING STOCK AND OPERATIONS.—

22 “(1) CERTIFICATION.—As a condition of finan-
 23 cial assistance made available under this chapter, a
 24 recipient that operates a rail fixed guideway public
 25 transportation system shall certify that the recipient

1 has established a process to develop, maintain, and
2 execute a written plan for identifying and reducing
3 cybersecurity risks.

4 “(2) COMPLIANCE.—For the process required
5 under paragraph (1), a recipient of assistance under
6 this chapter shall—

7 “(A) utilize the approach described by the
8 voluntary standards and best practices devel-
9 oped under section 2(c)(15) of the National In-
10 stitute of Standards and Technology Act (15
11 U.S.C. 272(c)(15)), as applicable;

12 “(B) identify hardware and software that
13 the recipient determines should undergo third-
14 party testing and analysis to mitigate cyberse-
15 curity risks, such as hardware or software for
16 rail rolling stock under proposed procurements;
17 and

18 “(C) utilize the approach described in any
19 voluntary standards and best practices for rail
20 fixed guideway public transportation systems
21 developed under the authority of the Secretary
22 of Homeland Security, as applicable.

23 “(3) LIMITATIONS ON STATUTORY CONSTRUC-
24 TION.—Nothing in this subsection shall be construed
25 to interfere with the authority of—

1 “(A) the Secretary of Homeland Security
2 to publish or ensure compliance with require-
3 ments or standards concerning cybersecurity for
4 rail fixed guideway public transportation sys-
5 tems; or

6 “(B) the Secretary of Transportation
7 under section 5329 to address cybersecurity
8 issues as those issues relate to the safety of rail
9 fixed guideway public transportation systems.”.

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