

117TH CONGRESS
2D SESSION

S. 1294

AN ACT

To authorize the imposition of sanctions with respect to foreign persons that have engaged in significant theft of trade secrets of United States persons, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Protecting American
3 Intellectual Property Act of 2022”.

4 **SEC. 2. IMPOSITION OF SANCTIONS WITH RESPECT TO**
5 **THEFT OF TRADE SECRETS OF UNITED**
6 **STATES PERSONS.**

7 (a) REPORT REQUIRED.—

8 (1) IN GENERAL.—Not later than 180 days
9 after the date of the enactment of this Act, and not
10 less frequently than annually thereafter, the Presi-
11 dent shall submit to the appropriate congressional
12 committees a report—

13 (A) identifying any foreign person the
14 President determines, during the period speci-
15 fied in paragraph (2)—

16 (i) has knowingly engaged in, or bene-
17 fitted from, significant theft of trade se-
18 crets of United States persons, if the theft
19 of such trade secrets occurred on or after
20 such date of enactment and is reasonably
21 likely to result in, or has materially con-
22 tributed to, a significant threat to the na-
23 tional security, foreign policy, or economic
24 health or financial stability of the United
25 States;

1 (ii) has provided significant financial,
2 material, or technological support for, or
3 goods or services in support of or to ben-
4 efit significantly from, such theft;

5 (iii) is an entity that is owned or con-
6 trolled by, or that has acted or purported
7 to act for or on behalf of, directly or indi-
8 rectly, any foreign person identified under
9 clause (i) or (ii); or

10 (iv) is a chief executive officer or
11 member of the board of directors of any
12 foreign entity identified under clause (i) or
13 (ii);

14 (B) describing the nature, objective, and
15 outcome of the theft of trade secrets each for-
16 eign person described in subparagraph (A)(i)
17 engaged in or benefitted from; and

18 (C) assessing whether any chief executive
19 officer or member of the board of directors de-
20 scribed in clause (iv) of subparagraph (A) en-
21 gaged in, or benefitted from, activity described
22 in clause (i) or (ii) of that subparagraph.

23 (2) PERIOD SPECIFIED.—The period specified
24 in this paragraph is—

1 (A) in the case of the first report required
2 by paragraph (1), the period beginning on the
3 date of the enactment of this Act and ending on
4 the date on which the report is required to be
5 submitted; and

6 (B) in the case of each subsequent report
7 required by paragraph (1), the one-year period
8 preceding the date on which the report is re-
9 quired to be submitted.

10 (3) FORM OF REPORT.—Each report required
11 by paragraph (1) shall be submitted in unclassified
12 form but may include a classified annex.

13 (b) AUTHORITY TO IMPOSE SANCTIONS.—

14 (1) SANCTIONS APPLICABLE TO ENTITIES.—In
15 the case of a foreign entity identified under subpara-
16 graph (A) of subsection (a)(1) in the most recent re-
17 port submitted under that subsection, the President
18 shall impose 5 or more of the following:

19 (A) BLOCKING OF PROPERTY.—The Presi-
20 dent may, pursuant to the International Emer-
21 gency Economic Powers Act (50 U.S.C. 1701 et
22 seq.), block and prohibit all transactions in all
23 property and interests in property of the entity
24 if such property and interests in property are in
25 the United States, come within the United

1 States, or are or come within the possession or
2 control of a United States person.

3 (B) INCLUSION ON ENTITY LIST.—The
4 President may include the entity on the entity
5 list maintained by the Bureau of Industry and
6 Security of the Department of Commerce and
7 set forth in Supplement No. 4 to part 744 of
8 the Export Administration Regulations, for ac-
9 tivities contrary to the national security or for-
10 eign policy interests of the United States.

11 (C) EXPORT-IMPORT BANK ASSISTANCE
12 FOR EXPORTS TO SANCTIONED PERSONS.—The
13 President may direct the Export-Import Bank
14 of the United States not to give approval to the
15 issuance of any guarantee, insurance, extension
16 of credit, or participation in the extension of
17 credit in connection with the export of any
18 goods or services to the entity.

19 (D) LOANS FROM UNITED STATES FINAN-
20 CIAL INSTITUTIONS.—The President may pro-
21 hibit any United States financial institution
22 from making loans or providing credits to the
23 entity totaling more than \$10,000,000 in any
24 12-month period unless the person is engaged

1 in activities to relieve human suffering and the
 2 loans or credits are provided for such activities.

3 (E) LOANS FROM INTERNATIONAL FINAN-
 4 CIAL INSTITUTIONS.—The President may direct
 5 the United States executive director to each
 6 international financial institution to use the
 7 voice and vote of the United States to oppose
 8 any loan from the international financial insti-
 9 tution that would benefit the entity.

10 (F) PROHIBITIONS ON FINANCIAL INSTITU-
 11 TIONS.—The following prohibitions may be im-
 12 posed against the entity if the entity is a finan-
 13 cial institution:

14 (i) PROHIBITION ON DESIGNATION AS
 15 PRIMARY DEALER.—Neither the Board of
 16 Governors of the Federal Reserve System
 17 nor the Federal Reserve Bank of New
 18 York may designate, or permit the continu-
 19 ation of any prior designation of, the fi-
 20 nancial institution as a primary dealer in
 21 United States Government debt instru-
 22 ments.

23 (ii) PROHIBITION ON SERVICE AS A
 24 REPOSITORY OF GOVERNMENT FUNDS.—
 25 The financial institution may not serve as

1 agent of the United States Government or
 2 serve as repository for United States Gov-
 3 ernment funds.

4 The imposition of either sanction under clause
 5 (i) or (ii) shall be treated as one sanction for
 6 purposes of this paragraph, and the imposition
 7 of both such sanctions shall be treated as 2
 8 sanctions for purposes of this paragraph.

9 (G) PROCUREMENT SANCTION.—The
 10 United States Government may not procure, or
 11 enter into any contract for the procurement of,
 12 any goods or services from the entity.

13 (H) FOREIGN EXCHANGE.—The President
 14 may, pursuant to such regulations as the Presi-
 15 dent may prescribe, prohibit any transactions in
 16 foreign exchange that are subject to the juris-
 17 diction of the United States and in which the
 18 entity has any interest.

19 (I) BANKING TRANSACTIONS.—The Presi-
 20 dent may, pursuant to such regulations as the
 21 President may prescribe, prohibit any transfers
 22 of credit or payments between financial institu-
 23 tions or by, through, or to any financial institu-
 24 tion, to the extent that such transfers or pay-
 25 ments are subject to the jurisdiction of the

1 United States and involve any interest of the
2 entity.

3 (J) BAN ON INVESTMENT IN EQUITY OR
4 DEBT OF SANCTIONED PERSON.—The President
5 may, pursuant to such regulations or guidelines
6 as the President may prescribe, prohibit any
7 United States person from investing in or pur-
8 chasing significant amounts of equity or debt
9 instruments of the entity.

10 (K) EXCLUSION OF CORPORATE OFFI-
11 CERS.—The President may direct the Secretary
12 of State to deny a visa to, and the Secretary of
13 Homeland Security to exclude from the United
14 States, any alien that the President determines
15 is a corporate officer or principal of, or a share-
16 holder with a controlling interest in, the entity.

17 (L) SANCTIONS ON PRINCIPAL EXECUTIVE
18 OFFICERS.—The President may impose on the
19 principal executive officer or officers of the enti-
20 ty, or on individuals performing similar func-
21 tions and with similar authorities as such offi-
22 cer or officers, any of the sanctions under this
23 paragraph.

24 (2) SANCTIONS APPLICABLE TO INDIVIDUALS.—
25 In the case of an alien identified under subpara-

graph (A) of subsection (a)(1) in the most recent report submitted under that subsection, the following shall apply:

(A) BLOCKING OF PROPERTY.—The President shall, pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.), block and prohibit all transactions in all property and interests in property of the alien if such property and interests in property are in the United States, come within the United States, or are or come within the possession or control of a United States person.

(B) INELIGIBILITY FOR VISAS, ADMISSION, OR PAROLE.—

(i) VISAS, ADMISSION, OR PAROLE.—

An alien described in subparagraph (A) of subsection (a)(1) is—

(I) inadmissible to the United States;

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

(III) otherwise ineligible to be admitted or paroled into the United 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.—An alien de-
 5 scribed in subparagraph (A) of sub-
 6 section (a)(1) is subject to revocation
 7 of any visa or other entry documenta-
 8 tion regardless of when the visa or
 9 other entry documentation is or was
 10 issued.

11 (II) IMMEDIATE EFFECT.—A rev-
 12 ocation under subclause (I) shall—

13 (aa) take effect pursuant to
 14 section 221(i) of the Immigration
 15 and Nationality Act (8 U.S.C.
 16 1201(i)); and

17 (bb) cancel any other valid
 18 visa or entry documentation that
 19 is in the alien's possession.

20 (c) NATIONAL INTEREST WAIVER.—The President
 21 may waive the imposition of sanctions under subsection
 22 (b) with respect to a person if the President—

23 (1) determines that such a waiver is in the na-
 24 tional interests of the United States; and

1 (2) not more than 15 days after issuing the
 2 waiver, submits to the appropriate congressional
 3 committees a notification of the waiver and the rea-
 4 sons for the waiver.

5 (d) IMPLEMENTATION; PENALTIES.—

6 (1) IMPLEMENTATION.—The President may ex-
 7 ercise all authorities provided under sections 203
 8 and 205 of the International Emergency Economic
 9 Powers Act (50 U.S.C. 1702 and 1704) to carry out
 10 this section.

11 (2) PENALTIES.—A person that violates, at-
 12 tempts to violate, conspires to violate, or causes a
 13 violation of this section or any regulation, license, or
 14 order issued to carry out this section shall be subject
 15 to the penalties set forth in subsections (b) and (c)
 16 of section 206 of the International Emergency Eco-
 17 nomic Powers Act (50 U.S.C. 1705) to the same ex-
 18 tent as a person that commits an unlawful act de-
 19 scribed in subsection (a) of that section.

20 (e) EXCEPTIONS.—

21 (1) INTELLIGENCE ACTIVITIES.—This section
 22 shall not apply with respect to activities subject to
 23 the reporting requirements under title V of the Na-
 24 tional Security Act of 1947 (50 U.S.C. 3091 et seq.)

1 or any authorized intelligence activities of the United
2 States.

3 (2) LAW ENFORCEMENT ACTIVITIES.—Sanctions under this section shall not apply with respect
4 to any authorized law enforcement activities of the
5 United States.

7 (3) EXCEPTION TO COMPLY WITH INTERNATIONAL AGREEMENTS.—Sanctions under this section shall not apply with respect to the admission of
8 an alien to the United States if such admission is
9 necessary to comply with the obligations of the
10 United States under the Agreement regarding the
11 Headquarters of the United Nations, signed at Lake
12 Success June 26, 1947, and entered into force November 21, 1947, between the United Nations and
13 the United States, or the Convention on Consular
14 Relations, done at Vienna April 24, 1963, and entered into force March 19, 1967, or other international obligations.

15 (4) EXCEPTION RELATING TO IMPORTATION OF
16 GOODS.—

17 (A) IN GENERAL.—The authority or a requirement to impose sanctions under this section shall not include the authority or a require-

1 ment to impose sanctions on the importation of
2 goods.

3 (B) GOOD DEFINED.—In this paragraph,
4 the term “good” means any article, natural or
5 manmade substance, material, supply, or manu-
6 factured product, including inspection and test
7 equipment, and excluding technical data.

8 (f) SUNSET.—This section shall terminate on the
9 date that is 7 years after the date of the enactment of
10 this Act.

11 (g) DEFINITIONS.—In this section:

12 (1) ADMISSION; ADMITTED; ALIEN; LAWFULLY
13 ADMITTED FOR PERMANENT RESIDENCE.—The
14 terms “admission”, “admitted”, “alien”, and “law-
15 fully admitted for permanent residence” have the
16 meanings given those terms in section 101 of the
17 Immigration and Nationality Act (8 U.S.C. 1101).

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

21 (A) the Committee on Banking, Housing,
22 and Urban Affairs and the Committee on For-
23 eign Relations of the Senate; and

1 (B) the Committee on Financial Services
2 and the Committee on Foreign Affairs of the
3 House of Representatives.

4 (3) ENTITY.—The term “entity” means a part-
5 nership, association, trust, joint venture, corpora-
6 tion, group, subgroup, or other organization.

7 (4) EXPORT ADMINISTRATION REGULATIONS.—
8 The term “Export Administration Regulations” has
9 the meaning given that term in section 1742 of the
10 Export Control Reform Act of 2018 (50 U.S.C.
11 4801).

12 (5) FOREIGN ENTITY.—The term “foreign enti-
13 ty” means an entity that is not a United States per-
14 son.

15 (6) FOREIGN PERSON.—The term “foreign per-
16 son” means any person that is not a United States
17 person.

18 (7) KNOWINGLY.—The term “knowingly”, with
19 respect to conduct, a circumstance, or a result,
20 means that a person has actual knowledge, or should
21 have known, of the conduct, the circumstance, or the
22 result.

23 (8) PERSON.—The term “person” means an in-
24 dividual or entity.

1 (9) TRADE SECRET.—The term “trade secret”
2 has the meaning given that term in section 1839 of
3 title 18, United States Code.

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

6 (A) a United States citizen or an alien law-
7 fully admitted for permanent residence to the
8 United States;

9 (B) an entity organized under the laws of
10 the United States or of any jurisdiction within
11 the United States, including a foreign branch of
12 such an entity; or

13 (C) any person in the United States.

Passed the Senate December 20, 2022.

Attest:

Secretary.

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