

Suspend the Rules and Pass the Bill, H.R. 7521, With an Amendment

(The amendment strikes all after the enacting clause and inserts a new text)

118TH CONGRESS
2^D SESSION

H. R. 7521

To protect the national security of the United States from the threat posed by foreign adversary controlled applications, such as TikTok and any successor application or service and any other application or service developed or provided by ByteDance Ltd. or an entity under the control of ByteDance Ltd.

IN THE HOUSE OF REPRESENTATIVES

MARCH 5, 2024

Mr. GALLAGHER (for himself, Mr. KRISHNAMOORTHY, Ms. STEFANIK, Ms. CASTOR of Florida, Mr. LATTA, Mr. CARSON, Mr. HERN, Mr. MOULTON, Mr. ROY, Ms. SHERRILL, Mr. DUNN of Florida, Ms. STEVENS, Mr. NORMAN, Mr. AUCHINCLOSS, Mrs. CAMMACK, Mr. TORRES of New York, Mr. MOOLENAAR, Ms. BROWN, Mr. GOTTHEIMER, and Mrs. HINSON) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To protect the national security of the United States from the threat posed by foreign adversary controlled applications, such as TikTok and any successor application or service and any other application or service developed or provided by ByteDance Ltd. or an entity under the control of ByteDance Ltd.

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 Americans
5 from Foreign Adversary Controlled Applications Act”.

6 **SEC. 2. PROHIBITION OF FOREIGN ADVERSARY CON-**
7 **TROLLED APPLICATIONS.**

8 (a) IN GENERAL.—

9 (1) PROHIBITION OF FOREIGN ADVERSARY CON-
10 TROLLED APPLICATIONS.—It shall be unlawful for
11 an entity to distribute, maintain, or update (or en-
12 able the distribution, maintenance, or updating of) a
13 foreign adversary controlled application by carrying
14 out, within the land or maritime borders of the
15 United States, any of the following:

16 (A) Providing services to distribute, main-
17 tain, or update such foreign adversary con-
18 trolled application (including any source code of
19 such application) by means of a marketplace
20 (including an online mobile application store)
21 through which users within the land or mari-
22 time borders of the United States may access,
23 maintain, or update such application.

24 (B) Providing internet hosting services to
25 enable the distribution, maintenance, or updat-

1 ing of such foreign adversary controlled applica-
2 tion for users within the land or maritime bor-
3 ders of the United States.

4 (2) APPLICABILITY.—Subsection (a) shall
5 apply—

6 (A) in the case of an application that satis-
7 fies the definition of a foreign adversary con-
8 trolled application pursuant to subsection
9 (g)(3)(A), beginning on the date that is 180
10 days after the date of the enactment of this
11 Act; and

12 (B) in the case of an application that satis-
13 fies the definition of a foreign adversary con-
14 trolled application pursuant to subsection
15 (g)(3)(B), beginning on the date that is 180
16 days after the date of the relevant determina-
17 tion of the President under such subsection.

18 (b) DATA AND INFORMATION PORTABILITY TO AL-
19 TERNATIVE APPLICATIONS.—Before the date on which a
20 prohibition under subsection (a) applies to a foreign adver-
21 sary controlled application, the entity that owns or con-
22 trols such application shall provide, upon request by a user
23 of such application within the land or maritime borders
24 of United States, to such user all the available data related
25 to the account of such user with respect to such applica-

1 tion. Such data shall be provided in a machine readable
2 format and shall include any data maintained by such ap-
3 plication with respect to the account of such user, includ-
4 ing content (including posts, photos, and videos) and all
5 other account information.

6 (c) EXEMPTIONS.—

7 (1) EXEMPTIONS FOR QUALIFIED
8 DIVESTITURES.—Subsection (a)—

9 (A) does not apply to a foreign adversary
10 controlled application with respect to which a
11 qualified divestiture is executed before the date
12 on which a prohibition under subsection (a)
13 would begin to apply to such application; and

14 (B) shall cease to apply in the case of a
15 foreign adversary controlled application with re-
16 spect to which a qualified divestiture is exe-
17 cuted after the date on which a prohibition
18 under subsection (a) applies to such application.

19 (2) EXEMPTIONS FOR CERTAIN NECESSARY
20 SERVICES.—Subsections (a) and (b) do not apply to
21 services provided with respect to a foreign adversary
22 controlled application that are necessary for an enti-
23 ty to attain compliance with such subsections.

24 (d) ENFORCEMENT.—

25 (1) CIVIL PENALTIES.—

1 (A) FOREIGN ADVERSARY CONTROLLED
2 APPLICATION VIOLATIONS.—An entity that vio-
3 lates subsection (a) shall be subject to pay a
4 civil penalty in an amount not to exceed the
5 amount that results from multiplying \$5,000 by
6 the number of users within the land or mari-
7 time borders of the United States determined to
8 have accessed, maintained, or updated a foreign
9 adversary controlled application as a result of
10 such violation.

11 (B) DATA AND INFORMATION VIOLA-
12 TIONS.—An entity that violates subsection (b)
13 shall be subject to pay a civil penalty in an
14 amount not to exceed the amount that results
15 from multiplying \$500 by the number of users
16 within the land or maritime borders of the
17 United States affected by such violation.

18 (2) ACTIONS BY ATTORNEY GENERAL.—The At-
19 torney General—

20 (A) shall conduct investigations related to
21 potential violations of subsection (a) or (b),
22 and, if such an investigation results in a deter-
23 mination that a violation has occurred, the At-
24 torney General shall pursue enforcement under
25 paragraph (1); and

1 (B) may bring an action in an appropriate
2 district court of the United States for appro-
3 priate relief, including civil penalties under
4 paragraph (1) or declaratory and injunctive re-
5 lief.

6 (e) SEVERABILITY.—

7 (1) IN GENERAL.—If any provision of this sec-
8 tion or the application of this section to any person
9 or circumstance is held invalid, the invalidity shall
10 not affect the other provisions or applications of this
11 section that can be given effect without the invalid
12 provision or application.

13 (2) SUBSEQUENT DETERMINATIONS.—If the
14 application of any provision of this section is held in-
15 valid with respect to a foreign adversary controlled
16 application that satisfies the definition of such term
17 pursuant to subsection (g)(3)(A), such invalidity
18 shall not affect or preclude the application of the
19 same provision of this section to such foreign adver-
20 sary controlled application by means of a subsequent
21 determination pursuant to subsection (g)(3)(B).

22 (f) RULE OF CONSTRUCTION.—Nothing in this Act
23 may be construed—

1 (1) to authorize the Attorney General to pursue
2 enforcement, under this section, other than enforce-
3 ment of subsection (a) or (b);

4 (2) to authorize the Attorney General to pursue
5 enforcement, under this section, against an indi-
6 vidual user of a foreign adversary controlled applica-
7 tion; or

8 (3) except as expressly provided herein, to alter
9 or affect any other authority provided by or estab-
10 lished under another provision of Federal law.

11 (g) DEFINITIONS.—In this section:

12 (1) CONTROLLED BY A FOREIGN ADVERSARY.—
13 The term “controlled by a foreign adversary” means,
14 with respect to a covered company or other entity,
15 that such company or other entity is—

16 (A) a foreign person that is domiciled in,
17 is headquartered in, has its principal place of
18 business in, or is organized under the laws of
19 a foreign adversary country;

20 (B) an entity with respect to which a for-
21 eign person or combination of foreign persons
22 described in subparagraph (A) directly or indi-
23 rectly own at least a 20 percent stake; or

1 (C) a person subject to the direction or
2 control of a foreign person or entity described
3 in subparagraph (A) or (B).

4 (2) COVERED COMPANY.—

5 (A) IN GENERAL.—The term “covered
6 company” means an entity that operates, di-
7 rectly or indirectly (including through a parent
8 company, subsidiary, or affiliate), a website,
9 desktop application, mobile application, or aug-
10 mented or immersive technology application
11 that—

12 (i) permits a user to create an ac-
13 count or profile to generate, share, and
14 view text, images, videos, real-time commu-
15 nications, or similar content;

16 (ii) has more than 1,000,000 monthly
17 active users with respect to at least 2 of
18 the 3 months preceding the date on which
19 a relevant determination of the President
20 is made pursuant to paragraph (3)(B);

21 (iii) enables 1 or more users to gen-
22 erate or distribute content that can be
23 viewed by other users of the website, desk-
24 top application, mobile application, or aug-

1 mented or immersive technology applica-
2 tion; and

3 (iv) enables 1 or more users to view
4 content generated by other users of the
5 website, desktop application, mobile appli-
6 cation, or augmented or immersive tech-
7 nology application.

8 (B) EXCLUSION.—The term “covered com-
9 pany” does not include an entity that operates
10 a website, desktop application, mobile applica-
11 tion, or augmented or immersive technology ap-
12 plication whose primary purpose is to allow
13 users to post product reviews, business reviews,
14 or travel information and reviews.

15 (3) FOREIGN ADVERSARY CONTROLLED APPLI-
16 CATION.—The term “foreign adversary controlled
17 application” means a website, desktop application,
18 mobile application, or augmented or immersive tech-
19 nology application that is operated, directly or indi-
20 rectly (including through a parent company, sub-
21 sidiary, or affiliate), by—

22 (A) any of—

23 (i) ByteDance, Ltd.;

24 (ii) TikTok;

1 (iii) a subsidiary of or a successor to
2 an entity identified in clause (i) or (ii) that
3 is controlled by a foreign adversary; or

4 (iv) an entity owned or controlled, di-
5 rectly or indirectly, by an entity identified
6 in clause (i), (ii), or (iii); or

7 (B) a covered company that—

8 (i) is controlled by a foreign adver-
9 sary; and

10 (ii) that is determined by the Presi-
11 dent to present a significant threat to the
12 national security of the United States fol-
13 lowing the issuance of—

14 (I) a public notice proposing such
15 determination; and

16 (II) a public report to Congress,
17 submitted not less than 30 days be-
18 fore such determination, describing
19 the specific national security concern
20 involved and containing a classified
21 annex and a description of what as-
22 sets would need to be divested to exe-
23 cute a qualified divestiture.

24 (4) FOREIGN ADVERSARY COUNTRY.—The term
25 “foreign adversary country” means a country speci-

1 fied in section 4872(d)(2) of title 10, United States
2 Code.

3 (5) INTERNET HOSTING SERVICE.—The term
4 “internet hosting service” means a service through
5 which storage and computing resources are provided
6 to an individual or organization for the accommoda-
7 tion and maintenance of 1 or more websites or on-
8 line services, and which may include file hosting, do-
9 main name server hosting, cloud hosting, and virtual
10 private server hosting.

11 (6) QUALIFIED DIVESTITURE.—The term
12 “qualified divestiture” means a divestiture or similar
13 transaction that—

14 (A) the President determines, through an
15 interagency process, would result in the relevant
16 foreign adversary controlled application no
17 longer being controlled by a foreign adversary;
18 and

19 (B) the President determines, through an
20 interagency process, precludes the establish-
21 ment or maintenance of any operational rela-
22 tionship between the United States operations
23 of the relevant foreign adversary controlled ap-
24 plication and any formerly affiliated entities
25 that are controlled by a foreign adversary, in-

1 including any cooperation with respect to the op-
2 eration of a content recommendation algorithm
3 or an agreement with respect to data sharing.

4 (7) SOURCE CODE.—The term “source code”
5 means the combination of text and other characters
6 comprising the content, both viewable and
7 nonviewable, of a software application, including any
8 publishing language, programming language, pro-
9 tocol, or functional content, as well as any successor
10 languages or protocols.

11 (8) UNITED STATES.—The term “United
12 States” includes the territories of the United States.

13 **SEC. 3. JUDICIAL REVIEW.**

14 (a) RIGHT OF ACTION.—A petition for review chal-
15 lenging this Act or any action, finding, or determination
16 under this Act may be filed only in the United States
17 Court of Appeals for the District of Columbia Circuit.

18 (b) EXCLUSIVE JURISDICTION.—The United States
19 Court of Appeals for the District of Columbia Circuit shall
20 have exclusive jurisdiction over any challenge to this Act
21 or any action, finding, or determination under this Act.

22 (c) STATUTE OF LIMITATIONS.—A challenge may
23 only be brought—

1 (1) in the case of a challenge to this Act, not
2 later than 165 days after the date of the enactment
3 of this Act; and

4 (2) in the case of a challenge to any action,
5 finding, or determination under this Act, not later
6 than 90 days after the date of such action, finding,
7 or determination.