

118TH CONGRESS  
1ST SESSION

# H. R. 1153

To provide a clarification of non-applicability for regulation and prohibition relating to sensitive personal data under the International Emergency Economic Powers Act, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 24, 2023

Mr. McCAUL introduced the following bill; which was referred to the  
Committee on Foreign Affairs

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## A BILL

To provide a clarification of non-applicability for regulation and prohibition relating to sensitive personal data under the International Emergency Economic Powers Act, 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 AND TABLE OF CONTENTS.**

4       (a) **SHORT TITLE.**—This Act may be cited as the  
5       “Deterring America’s Technological Adversaries Act” or  
6       “DATA Act”.

7       (b) **TABLE OF CONTENTS.**—The table of contents for  
8       this Act is as follows:

- Sec. 1. Short title and table of contents.  
 Sec. 2. Findings.  
 Sec. 3. Authorization of appropriations.  
 Sec. 4. Severability.  
 Sec. 5. Definitions.

TITLE I—CLARIFICATION OF NON-APPLICABILITY FOR REGULATION AND PROHIBITION RELATING TO SENSITIVE PERSONAL DATA UNDER INTERNATIONAL EMERGENCY ECONOMIC POWERS ACT

- Sec. 101. Clarification.  
 Sec. 102. Directive.

TITLE II—IMPOSITION OF SANCTIONS ON CERTAIN TRANSACTIONS RELATING TO CONNECTED SOFTWARE APPLICATIONS

- Sec. 201. Imposition of sanctions.  
 Sec. 202. Sanction described.  
 Sec. 203. Sunset.

TITLE III—SPECIFIC DETERMINATIONS WITH RESPECT TO THE IMPOSITION OF SANCTIONS

- Sec. 301. Determination relating to Bytedance, Ltd., TikTok, and related entities.  
 Sec. 302. Requests by appropriate congressional committees.

1 **SEC. 2. FINDINGS.**

2 Congress finds the following:

- 3 (1) On December 2, 2022, the Director of the  
 4 Federal Bureau of Investigation, Christopher Wray,  
 5 stated, “We . . . do have national security concerns  
 6 about the app [TikTok]. Its parent company is controlled by the Chinese government. And it gives  
 7 them the potential to leverage the app in ways that  
 8 I think should concern us . . . One, it gives them  
 9 the ability to control the recommendation algorithm  
 10 which allows them to manipulate content and if they  
 11 want to, to use it for influence operations which are  
 12 a lot more worrisome in the hands of the Chinese  
 13

1 Communist Party than whether or not you're steer-  
2 ing somebody as an influencer to one product or an-  
3 other. They also have the ability to collect data  
4 through it on users which can be used for traditional  
5 espionage operations, for example. They also have  
6 the ability on it to get access, they have essentially  
7 access to the software to devices. So you're talking  
8 about millions of devices and that gives them the  
9 ability to engage in different kinds of malicious  
10 cyber activity through that. And so all of these  
11 things are in the hands of a government that doesn't  
12 share our values and that has a mission that's very  
13 much at odds with what's in the best interest of the  
14 United States that that should concern us."

15 (2) On December 3, 2022, the Director of Na-  
16 tional Intelligence, Avril Haines, "It is extraordinary  
17 the degree to which China, in particular, but they're  
18 not the only ones, obviously, are developing just  
19 frameworks for collecting foreign data and pulling it  
20 in and their capacity to then turn that around and  
21 use it to target audiences for information campaigns  
22 or for other things, but also to have it for the future  
23 so that they can use it for a variety of means that  
24 they're interested in."

1           (3) On December 16, 2022, the Director of  
2           Central Intelligence, Bill Burns, stated, “I think it’s  
3           a genuine concern . . . for the U.S. government, in  
4           the sense that, because the parent company of  
5           TikTok is a Chinese company, the Chinese govern-  
6           ment is able to insist upon extracting the private  
7           data of a lot of TikTok users in this country, and  
8           also to shape the content of what goes on to TikTok  
9           as well to suit the interests of the Chinese leadership  
10          . . . What I would underscore, though, is that it’s  
11          genuinely troubling to see what the Chinese govern-  
12          ment could do to manipulate TikTok.”.

13           (4) On December 23, 2022, both chambers of  
14          Congress passed a bipartisan spending bill that in-  
15          cluded a ban on using TikTok from government de-  
16          vices.

17 **SEC. 3. AUTHORIZATION OF APPROPRIATIONS.**

18          No additional amounts are authorized to be made  
19          available to carry out this Act.

20 **SEC. 4. SEVERABILITY.**

21          If any provision of this Act or its application to any  
22          person or circumstance is held invalid, the invalidity does  
23          not affect other provisions or applications of this section  
24          that can be given effect without the invalid provision or

1 application, and to this end the provisions of this Act are  
2 severable.

3 **SEC. 5. DEFINITIONS.**

4 In this Act:

5 (1) AGENCY OR INSTRUMENTALITY OF A FOR-  
6 EIGN STATE.—The term “agency or instrumentality  
7 of a foreign state” has the meaning given such term  
8 under section 1603(b) of title 28, United States  
9 Code.

10 (2) APPROPRIATE CONGRESSIONAL COMMIT-  
11 TEES.—The term “appropriate congressional com-  
12 mittees” means—

13 (A) the Committee on Foreign Affairs,  
14 Committee on Ways and Means, and the Com-  
15 mittee on Financial Services of the House of  
16 Representatives; and

17 (B) the Committee on Foreign Relations  
18 and the Committee on Banking, Housing, and  
19 Urban Affairs of the Senate.

20 (3) CHINA.—The term “China” means—

21 (A) when used in the geographic sense, the  
22 country of the People’s Republic of China; and

23 (B) otherwise, the Government of the  
24 country of the People’s Republic of China, in-

1 including any entity acting on behalf of, or the  
2 benefit of—

3 (i) the country of the People’s Repub-  
4 lic of China; or

5 (ii) the Government of the country of  
6 the People’s Republic of China.

7 (4) CONNECTED SOFTWARE APPLICATION.—

8 The term “connected software application” has the  
9 meaning given such term in Executive Order 14034  
10 (86 Fed. Reg. 31423; relating to protecting Ameri-  
11 cans’ sensitive data from foreign adversaries).

12 (5) ELECTION INTERFERENCE IN OR AGAINST A  
13 FOREIGN COUNTRY THAT IS A TREATY ALLY OF THE  
14 UNITED STATES OR A DEMOCRATIC OR EMERGING  
15 DEMOCRATIC PARTNER OF THE UNITED STATES.—

16 The term “election interference in or against a for-  
17 eign country that is a treaty ally of the United  
18 States or a democratic or emerging democratic part-  
19 ner of the United States” means actions to engage  
20 in, directly or indirectly, activities originating from,  
21 or directed by, persons located, in whole or in sub-  
22 stantial part, outside the territory of a treaty ally of  
23 the United States or a democratic or emerging  
24 democratic partner of the United States that have  
25 the purpose or effect of tampering with, altering, un-

1 lawfully accessing, or causing a misappropriation of  
2 information with the purpose or effect of interfering  
3 with or undermining election processes or institu-  
4 tions.

5 (6) ELECTION INTERFERENCE IN OR AGAINST  
6 THE UNITED STATES.—The term “election inter-  
7 ference in or against the United States” includes ac-  
8 tions to engage in, directly or indirectly, activities  
9 originating from, or directed by persons located, in  
10 whole or in substantial part, outside the United  
11 States that—

12 (A) have the purpose or effect of tam-  
13 pering with, altering, unlawfully accessing, or  
14 causing a misappropriation of information with  
15 the purpose or effect of undermining election  
16 processes or institutions;

17 (B) deny access, block, degrade, or alter  
18 election and campaign infrastructure, or related  
19 systems or data related to political parties, can-  
20 didates in elections for public office, the admin-  
21 istration of elections for public office, or any  
22 public election activity; or

23 (C) consist of the making of contributions  
24 or donations, or any other activity prohibited  
25 under section 319 of the Federal Election Cam-

1           paign Act of 1971 (52 U.S.C. 30121), with the  
2           purpose or effect of undermining election proc-  
3           esses or institutions.

4           (7) FOREIGN PERSON.—The term “foreign per-  
5           son”—

6                   (A) means a person that is not a United  
7           States person; and

8                   (B) includes a nonresident alien individual,  
9           foreign corporation, foreign partnership, foreign  
10          trust, foreign estate.

11          (8) KNOWINGLY.—The term “knowingly”, with  
12          respect to conduct, a circumstance, or a result,  
13          means that a person has actual knowledge, or should  
14          have known, of the conduct, the circumstance, or the  
15          result.

16          (9) SENSITIVE PERSONAL DATA.—The term  
17          “sensitive personal data” has the meaning given  
18          such term in section 7.2 of title 15, Code of Federal  
19          Regulations (or any successor regulation).

20          (10) TREATY ALLY OF THE UNITED STATES.—  
21          The term “treaty ally of the United States” means  
22          a foreign country that is a party to any of the fol-  
23          lowing:

24                   (A) The North Atlantic Treaty, signed at  
25                  Washington, April 4, 1949.



1 (B) The Security Treaty Between Aus-  
2 tralia, New Zealand, and the United States of  
3 America, signed at San Francisco, September  
4 1, 1951.

5 (C) The Mutual Defense Treaty Between  
6 the United States of America and the Republic  
7 of the Philippines, signed at Washington, Au-  
8 gust 30, 1951.

9 (D) The Southeast Asia Collective Defense  
10 Treaty, signed at Manilla, September 8, 1954.

11 (E) The Treaty of Mutual Cooperation and  
12 Security Between the United States of America  
13 and Japan, signed at Washington, January 19,  
14 1960.

15 (F) The Mutual Defense Treaty Between  
16 the United States of America and the Republic  
17 of Korea, signed at Washington, October 1,  
18 1953.

19 (11) UNITED STATES PERSON.—The term  
20 “United States person” means—

21 (A) a United States citizen;

22 (B) a permanent resident alien;

23 (C) an entity organized under the laws of  
24 the United States (including foreign branches);

25 or

1 (D) any person in the United States.

2 **TITLE I—CLARIFICATION OF**  
3 **NON-APPLICABILITY FOR**  
4 **REGULATION AND PROHIBI-**  
5 **TION RELATING TO SEN-**  
6 **SITIVE PERSONAL DATA**  
7 **UNDER INTERNATIONAL**  
8 **EMERGENCY ECONOMIC POW-**  
9 **ERS ACT**

10 **SEC. 101. CLARIFICATION.**

11 (a) **IN GENERAL.**—The importation to a country, or  
12 the exportation from a country, of sensitive personal data  
13 shall not constitute the importation from a country, or the  
14 exportation to a country, of information or informational  
15 materials for purposes of paragraph (1) or (3) of section  
16 203(b) of the International Emergency Economic Powers  
17 Act (50 U.S.C. 1702(b)).

18 (b) **RULE OF CONSTRUCTION.**—Nothing in sub-  
19 section (a), and nothing in the International Emergency  
20 Economic Powers Act, may be construed to provide for  
21 the application of paragraph (1) or (3) of section 203(b)  
22 of the International Emergency Economic Powers Act (50  
23 U.S.C. 1702(b)) to the importation to China, or the expor-  
24 tation from China, directly or indirectly, of sensitive per-  
25 sonal data.

1 **SEC. 102. DIRECTIVE.**

2 Not later than 180 days after the date of the enact-  
3 ment of this Act, the Secretary of the Treasury shall issue  
4 a directive prohibiting United States persons from engag-  
5 ing in any transaction with a person that the Secretary  
6 of the Treasury determines knowingly provides or may  
7 transfer sensitive personal data of persons subject to  
8 United States jurisdiction to any foreign person that—

9 (1) is subject to the jurisdiction or direction of,  
10 or directly or indirectly operating on behalf of,  
11 China; or

12 (2) is owned by, directly or indirectly controlled  
13 by, or is otherwise subject to the influence of China.

14 **TITLE II—IMPOSITION OF SANCTIONS ON CERTAIN TRANS-**  
15 **ACTIONS RELATING TO CON-**  
16 **NECTED SOFTWARE APPLICA-**  
17 **TIONS**

19 **SEC. 201. IMPOSITION OF SANCTIONS.**

20 (a) IN GENERAL.—The President shall impose the  
21 sanction described in section 202 with respect to any for-  
22 eign person that, on or after the date of the enactment  
23 of this Act, knowingly—

24 (1) operates, directs, or otherwise deals in a  
25 connected software application that—

1 (A) is subject to the jurisdiction or direc-  
2 tion of, or directly or indirectly operating on be-  
3 half of China, or is owned by, directly or indi-  
4 rectly controlled by, or otherwise subject to the  
5 influence of China; and

6 (B) is reasonable believed to have facili-  
7 tated or may be facilitating or contributing to  
8 China's—

9 (i) military, intelligence, espionage, or  
10 weapons proliferation activities;

11 (ii) censorship activities;

12 (iii) surveillance activities;

13 (iv) control or use of recommendation  
14 algorithms that are capable of manipu-  
15 lating content;

16 (v) malicious cyber activities; or

17 (vi) use of data to target audiences  
18 for information campaigns;

19 (2) directly or indirectly orders, controls, di-  
20 rects, engages in, or otherwise facilitates an act of  
21 election interference against the United States;

22 (3) directly or indirectly orders, controls, di-  
23 rects, engages in, or otherwise facilitates an act of  
24 election interference in or against a foreign country  
25 that is—

1 (A) a treaty ally of the United States; or

2 (B) a democratic or emerging democratic  
3 partner of the United States;

4 (4) directly or indirectly orders, controls, di-  
5 rects, engages in, or otherwise facilitates an act of  
6 steering United States policy and regulatory deci-  
7 sions in favor of China's strategic objectives, to the  
8 detriment of the economic or national security of the  
9 United States;

10 (5) knowingly facilitates a transaction or trans-  
11 actions for or on behalf of a person described, or a  
12 person that has engaged in the activity described, as  
13 the case may be, in paragraph (1), (2), (3), or (4);

14 (6) knowingly assists, sponsors, or provides fi-  
15 nancial, material, or technological support for a per-  
16 son described, or a person that has engaged in the  
17 activity described, as the case may be, in paragraph  
18 (1), (2), (3), or (4); or

19 (7) is owned or controlled by, or has acted for  
20 or on behalf of, directly or indirectly, a person de-  
21 scribed, or a person that has engaged in the activity  
22 described, as the case may be, in paragraph (1), (2),  
23 (3), or (4).

1 (b) LIST OF FOREIGN COUNTRIES THAT ARE DEMO-  
2 CRATIC OR EMERGING DEMOCRATIC PARTNERS OF THE  
3 UNITED STATES.—

4 (1) IN GENERAL.—Not later than 90 days after  
5 the date of the enactment of this Act, the President  
6 shall submit to the appropriate congressional com-  
7 mittees—

8 (A) a definition of the term “democratic or  
9 emerging democratic partner of the United  
10 States”; and

11 (B) a list of foreign countries that are des-  
12 ignated as a democratic or emerging democratic  
13 partner of the United States for purposes of  
14 subsection (a)(3) that includes the countries  
15 listed in paragraph (2).

16 (2) INITIAL DESIGNATIONS.—Sweden, Switzer-  
17 land, Israel, India, and Taiwan shall be deemed to  
18 have been so designated as a democratic or emerging  
19 democratic partner of the United States for pur-  
20 poses of subsection (a)(3).

21 (3) UPDATES.—The President shall submit to  
22 the appropriate congressional committees an up-  
23 dated list under subparagraph (A) on a periodic  
24 basis.

1 **SEC. 202. SANCTION DESCRIBED.**

2 (a) IN GENERAL.—The sanction described in this  
3 section is the exercise of all powers granted to the Presi-  
4 dent by the International Emergency Economic Powers  
5 Act (50 U.S.C. 1701 et seq.) (except that the require-  
6 ments of section 202 of such Act (50 U.S.C. 1701) shall  
7 not apply) to the extent necessary to block and prohibit  
8 all transactions in all property and interests in property  
9 of any foreign person or an agency or instrumentality of  
10 a foreign state, as the case may be, if such property and  
11 interests in property are in the United States, come within  
12 the United States, or are or come within the possession  
13 or control of a United States person.

14 (b) IMPLEMENTATION.—The President may exercise  
15 all authorities provided under sections 203 and 205 of the  
16 International Emergency Economic Powers Act (50  
17 U.S.C. 1702 and 1704) to carry out this title.

18 (c) REGULATIONS.—

19 (1) IN GENERAL.—The President shall pre-  
20 scribe such regulations as may be necessary for the  
21 implementation of this title.

22 (2) PRIOR BRIEFING REQUIRED.—Not later  
23 than 10 days before the prescription of regulations  
24 under paragraph (1), the President shall brief the  
25 appropriate congressional committees regarding the

1 proposed regulations and the provisions of this title  
2 that such regulations are implementing.

3 (d) PENALTIES.—A person that violates, attempts to  
4 violate, or causes a violation of any sanction authorized  
5 by this title, or any regulation, license, or order issued to  
6 carry out such sanctions, shall be subject to the penalties  
7 set forth in subsections (b) and (c) of section 206 of the  
8 International Emergency Economic Powers Act (50  
9 U.S.C. 1705) to the same extent as a person that commits  
10 an unlawful act described in subsection (a) of that section.

11 (e) EXCEPTIONS.—The following activities shall not  
12 be subject to the imposition of sanctions under this title:

13 (1) Any authorized intelligence, law enforce-  
14 ment, or national security activities of the United  
15 States.

16 (2) Any transaction necessary to comply with  
17 United States obligations under the Agreement be-  
18 tween the United Nations and the United States of  
19 America regarding the Headquarters of the United  
20 States, signed at Lake Success June 26, 1947, and  
21 entered into force November 21, 1947, or the Con-  
22 vention on Consular Relations, done at Vienna April  
23 24, 1963, and entered into force March 19, 1967, or  
24 any other United States international agreement.



1 (f) WAIVER.—The President may, on a case-by-case  
2 basis and for periods not to exceed 180 days each, waive  
3 the application of sanctions imposed with respect to a for-  
4 eign person under this title if the President certifies to  
5 the appropriate congressional committees, not later than  
6 15 days before such waiver is to take effect, that the waiv-  
7 er is vital to the national security interests of the United  
8 States.

9 **SEC. 203. SUNSET.**

10 This title, and the authorities provided by this title,  
11 shall terminate on the date that is 5 years after the date  
12 of the enactment of this Act.

13 **TITLE III—SPECIFIC DETER-**  
14 **MINATIONS WITH RESPECT**  
15 **TO THE IMPOSITION OF SANC-**  
16 **TIONS**

17 **SEC. 301. DETERMINATION RELATING TO BYTEDANCE,**  
18 **LTD., TIKTOK, AND RELATED ENTITIES.**

19 (a) IN GENERAL.—Not later than 90 days after the  
20 date of the enactment of this Act, and every 180 days  
21 thereafter for 3 years, the President shall transmit to the  
22 appropriate congressional committees a determination of  
23 whether reasonable grounds exist for concluding that any  
24 of the entities described in subsection (b)—

1           (1) meets the criteria described in paragraph  
2           (1) or (2) of section 102 for purposes of applying a  
3           directive described in such section with respect to  
4           the entity; or

5           (2) have engaged in any conduct described in  
6           section 201.

7           (b) ENTITIES DESCRIBED.—The entities described in  
8           this subsection are—

9           (1) Bytedance, Ltd.;

10          (2) TikTok;

11          (3) any subsidiary of or a successor to an entity  
12          described in paragraph (1) or (2); and

13          (4) any entity owned or controlled directly or  
14          indirectly by an entity described in paragraph (1),  
15          (2), or (3).

16          (c) FORM.—The determination described in sub-  
17          section (a) shall be transmitted in unclassified form, and  
18          any supporting documentation may be transmitted in a  
19          classified annex.

20          (d) APPLICATION OF SANCTIONS.—If the President  
21          makes an affirmative decision under subsection (a) with  
22          respect to any entity described in subsection (b), the Presi-  
23          dent shall impose the sanction described in section 202  
24          with respect to the entity, as appropriate.

1 **SEC. 302. REQUESTS BY APPROPRIATE CONGRESSIONAL**  
2 **COMMITTEES.**

3 (a) IN GENERAL.—Not later than 120 days after re-  
4 ceiving a request from the chairperson or ranking member  
5 of one or more of the appropriate congressional commit-  
6 tees with respect to whether a foreign person meets the  
7 criteria described in paragraph (1) or (2) of section 102  
8 for purposes of applying a directive described in such sec-  
9 tion with respect to the person, or have engaged in any  
10 conduct described in section 201 for the imposition of the  
11 sanction described in section 202, the President shall—

12 (1) determine if that person meets the require-  
13 ments described in the applicable section; and

14 (2) submit to the chairperson and ranking  
15 member of the committee or committees a report  
16 that includes—

17 (A) a statement of whether or not the  
18 President imposed or intends to impose such  
19 sanction with respect to the person; and

20 (B) if applicable, a description of the sanc-  
21 tion so imposed or intended to be imposed.

22 (b) AVAILABILITY OF INFORMATION.—

23 (1) IN GENERAL.—Any information obtained at  
24 any time with respect to the President making a de-  
25 termination with respect to a foreign person under  
26 subsection (a), or under any review of the foreign

1 person through other United States Government na-  
2 tional security review processes, shall be made avail-  
3 able to a committee or subcommittee of Congress of  
4 appropriate jurisdiction, upon the request of the  
5 chairman or ranking minority member of such com-  
6 mittee or subcommittee.

7 (2) PROHIBITION ON DISCLOSURE.—No such  
8 committee or subcommittee, or member thereof, may  
9 disclose any information made available under clause  
10 (i), that is submitted on a confidential basis unless  
11 the full committee determines that the withholding  
12 of that information is contrary to the national inter-  
13 est.

14 (c) FORM.—Each determination described in sub-  
15 section (a)(1), and each report under subsection (a)(2),  
16 may be submitted in classified or unclassified form, and  
17 any supporting documentation to such determination or  
18 report may contain a classified annex.

○