

118TH CONGRESS
1ST SESSION

S. 473

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, and Mr. MURPHY) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

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”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

8 (1) COVERED FOREIGN ENTITY.—The term
9 “covered foreign entity” means an entity included on
10 a list developed and maintained by the Federal Ac-
11 quisition Security Council and published in the Sys-

1 tem for Award Management (SAM). This list will in-
2 clude entities in the following categories:

3 (A) An entity included on the Consolidated
4 Screening List.

5 (B) Any entity that is subject to
6 extrajudicial direction from a foreign govern-
7 ment, as determined by the Secretary of Home-
8 land Security.

9 (C) Any entity the Secretary of Homeland
10 Security, in coordination with the Attorney
11 General, Director of National Intelligence, and
12 the Secretary of Defense, determines poses a
13 national security risk.

14 (D) Any entity domiciled in the People's
15 Republic of China or subject to influence or
16 control by the Government of the People's Re-
17 public of China or the Communist Party of the
18 People's Republic of China, as determined by
19 the Secretary of Homeland Security.

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

22 (2) COVERED UNMANNED AIRCRAFT SYSTEM.—

23 The term “covered unmanned aircraft system” has
24 the meaning given the term “unmanned aircraft sys-

1 tem” in section 44801 of title 49, United States
2 Code.

3 (3) INTELLIGENCE; INTELLIGENCE COMMU-
4 NITY.—The terms “intelligence” and “intelligence
5 community” have the meanings given those terms in
6 section 3 of the National Security Act of 1947 (50
7 U.S.C. 3003).

8 **SEC. 3. PROHIBITION ON PROCUREMENT OF COVERED UN-**
9 **MANNED AIRCRAFT SYSTEMS FROM COV-**
10 **ERED FOREIGN ENTITIES.**

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

23 (b) EXEMPTION.—The Secretary of Homeland Secu-
24 rity, the Secretary of Defense, the Director of National
25 Intelligence, and the Attorney General are exempt from

1 the restriction under subsection (a) if the procurement is
2 required in the national interest of the United States
3 and—

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

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

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

23 (c) DEPARTMENT OF TRANSPORTATION AND FED-
24 ERAL AVIATION ADMINISTRATION EXEMPTION.—The
25 Secretary of Transportation is exempt from the restriction

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

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

17 (e) NATIONAL OCEANIC AND ATMOSPHERIC ADMIN-
18 ISTRATION EXEMPTION.—The Administrator of the Na-
19 tional Oceanic and Atmospheric Administration (NOAA),
20 in consultation with the Secretary of Homeland Security,
21 is exempt from the restriction under subsection (a) if the
22 procurement is necessary for the purpose of meeting
23 NOAA’s science or management objectives or operational
24 mission.

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

4 (1) with the approval of the Director of the Of-
5 fice of Management and Budget, after consultation
6 with the Federal Acquisition Security Council; and

7 (2) upon notification to—

8 (A) the Committee on Homeland Security
9 and Governmental Affairs of the Senate;

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

12 (C) other appropriate congressional com-
13 mittees of jurisdiction.

14 **SEC. 4. PROHIBITION ON OPERATION OF COVERED UN-**
15 **MANNED AIRCRAFT SYSTEMS FROM COV-**
16 **ERED FOREIGN ENTITIES.**

17 (a) PROHIBITION.—

18 (1) IN GENERAL.—Beginning on the date that
19 is two years after the date of the enactment of this
20 Act, no Federal department or agency may operate
21 a covered unmanned aircraft system manufactured
22 or assembled by a covered foreign entity.

23 (2) APPLICABILITY TO CONTRACTED SERV-
24 ICES.—The prohibition under paragraph (1) applies
25 to any covered unmanned aircraft systems that are

1 being used by any executive agency through the
2 method of contracting for the services of covered un-
3 manned aircraft systems.

4 (b) EXEMPTION.—The Secretary of Homeland Secu-
5 rity, the Secretary of Defense, the Director of National
6 Intelligence, and the Attorney General are exempt from
7 the restriction under subsection (a) if the operation is re-
8 quired in the national interest of the United States 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 is deemed to support
7 the safe, secure, or efficient operation of the National Air-
8 space System or maintenance of public safety, including
9 activities carried out under the Federal Aviation Adminis-
10 tration’s Alliance for System Safety of UAS through Re-
11 search Excellence (ASSURE) Center of Excellence (COE)
12 and any other activity deemed to support the safe, secure,
13 or efficient operation of the National Airspace System or
14 maintenance of public safety, as determined by the Sec-
15 retary 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 is necessary for the sole purpose of con-
21 ducting 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 (g) REGULATIONS AND GUIDANCE.—Not later than
19 180 days after the date of the enactment of this Act, the
20 Secretary of Homeland Security, in consultation with the
21 Attorney General and the Secretary of Transportation,
22 shall prescribe regulations or guidance to implement this
23 section.

1 **SEC. 5. PROHIBITION ON USE OF FEDERAL FUNDS FOR**
2 **PROCUREMENT AND OPERATION OF COV-**
3 **ERED UNMANNED AIRCRAFT SYSTEMS FROM**
4 **COVERED FOREIGN ENTITIES.**

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

10 (1) to procure a covered unmanned aircraft sys-
11 tem that is manufactured or assembled by a covered
12 foreign entity; or

13 (2) in connection with the operation of such a
14 drone or unmanned aircraft system.

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

21 (1) is for the sole purposes of research, evalua-
22 tion, training, testing, or analysis for electronic war-
23 fare, information warfare operations, cybersecurity,
24 or development of unmanned aircraft system or
25 counter-unmanned aircraft system technology;

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

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

15 (c) DEPARTMENT OF TRANSPORTATION AND FED-
16 ERAL AVIATION ADMINISTRATION EXEMPTION.—The
17 Secretary of Transportation is exempt from the restriction
18 under subsection (a) if the operation or procurement is
19 deemed to support the safe, secure, or efficient operation
20 of the National Airspace System or maintenance of public
21 safety, including activities carried out under the Federal
22 Aviation Administration’s Alliance for System Safety of
23 UAS through Research Excellence (ASSURE) Center of
24 Excellence (COE) and any other activity deemed to sup-
25 port the safe, secure, or efficient operation of the National

1 Airspace System or maintenance of public safety, as deter-
2 mined by the Secretary or the Secretary's designee.

3 (d) 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 operation or procurement is necessary for the purpose of
9 meeting NOAA's science or management objectives or
10 operational mission.

11 (e) 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 (f) REGULATIONS.—Not later than 180 days after
25 the date of the enactment of this Act, the Federal Acquisi-

1 tion Regulatory Council shall prescribe regulations or
2 guidance, as necessary, to implement the requirements of
3 this section pertaining to Federal contracts.

4 **SEC. 6. PROHIBITION ON USE OF GOVERNMENT-ISSUED**
5 **PURCHASE CARDS TO PURCHASE COVERED**
6 **UNMANNED AIRCRAFT SYSTEMS FROM COV-**
7 **ERED FOREIGN ENTITIES.**

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

11 **SEC. 7. MANAGEMENT OF EXISTING INVENTORIES OF COV-**
12 **ERED UNMANNED AIRCRAFT SYSTEMS FROM**
13 **COVERED FOREIGN ENTITIES.**

14 (a) IN GENERAL.—All executive agencies must ac-
15 count for existing inventories of covered unmanned air-
16 craft systems manufactured or assembled by a covered for-
17 eign entity in their personal property accounting systems,
18 within one year of the date of enactment of this Act, re-
19 gardless of the original procurement cost, or the purpose
20 of procurement due to the special monitoring and account-
21 ing measures necessary to track the items' capabilities.

22 (b) CLASSIFIED TRACKING.—Due to the sensitive na-
23 ture of missions and operations conducted by the United
24 States Government, inventory data related to covered un-
25 manned aircraft systems manufactured or assembled by

1 a covered foreign entity may be tracked at a classified
2 level, as determined by the Secretary of Homeland Secu-
3 rity or the Secretary's designee.

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

13 **SEC. 8. COMPTROLLER GENERAL REPORT.**

14 Not later than 275 days after the date of the enact-
15 ment of this Act, the Comptroller General of the United
16 States shall submit to Congress a report on the amount
17 of commercial off-the-shelf drones and covered unmanned
18 aircraft systems procured by Federal departments and
19 agencies from covered foreign entities.

20 **SEC. 9. GOVERNMENT-WIDE POLICY FOR PROCUREMENT**
21 **OF UNMANNED AIRCRAFT SYSTEMS.**

22 (a) IN GENERAL.—Not later than 180 days after the
23 date of the enactment of this Act, the Director of the Of-
24 fice of Management and Budget, in coordination with the
25 Department of Homeland Security, Department of Trans-

1 portation, the Department of Justice, and other Depart-
2 ments as determined by the Director of the Office of Man-
3 agement and Budget, and in consultation with the Na-
4 tional Institute of Standards and Technology, shall estab-
5 lish a government-wide policy for the procurement of an
6 unmanned aircraft system—

7 (1) for non-Department of Defense and non-in-
8 telligence community operations; and

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

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

19 (1) Protections to ensure controlled access to
20 an unmanned aircraft system.

21 (2) Protecting software, firmware, and hard-
22 ware by ensuring changes to an unmanned aircraft
23 system are properly managed, including by ensuring
24 an unmanned aircraft system can be updated using
25 a secure, controlled, and configurable mechanism.

1 (3) Cryptographically securing sensitive col-
2 lected, stored, and transmitted data, including prop-
3 er handling of privacy data and other controlled un-
4 classified information.

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

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

11 (6) The ability to opt out of the uploading,
12 downloading, or transmitting of data that is not re-
13 quired by law or regulation and an ability to choose
14 with whom and where information is shared when it
15 is required.

16 (c) REQUIREMENT.—The policy developed under sub-
17 section (a) shall reflect an appropriate risk-based ap-
18 proach to information security related to use of an un-
19 manned aircraft system.

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

23 (1) the Federal Acquisition Regulatory Council
24 shall revise the Federal Acquisition Regulation, as
25 necessary, to implement the policy; and

1 (2) any Federal department or agency or other
2 Federal entity not subject to, or not subject solely
3 to, the Federal Acquisition Regulation shall revise
4 applicable policy, guidance, or regulations, as nec-
5 essary, to implement the policy.

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

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

11 (2) incorporate an exemption to the policy in
12 the case of a head of the procuring department or
13 agency determining, in writing, that no product that
14 complies with the information security requirements
15 described in subsection (b) is capable of fulfilling
16 mission critical performance requirements, and such
17 determination—

18 (A) may not be delegated below the level of
19 the Deputy Secretary, or Administrator, of the
20 procuring department or agency;

21 (B) shall specify—

22 (i) the quantity of end items to which
23 the waiver applies and the procurement
24 value of those items; and

1 (ii) the time period over which the
2 waiver applies, which shall not exceed three
3 years;

4 (C) shall be reported to the Office of Man-
5 agement and Budget following issuance of such
6 a determination; and

7 (D) not later than 30 days after the date
8 on which the determination is made, shall be
9 provided to the Committee on Homeland Secu-
10 rity and Governmental Affairs of the Senate
11 and the Committee on Oversight and Reform of
12 the House of Representatives.

13 **SEC. 10. STATE, LOCAL, AND TERRITORIAL LAW ENFORCE-**
14 **MENT AND EMERGENCY SERVICE EXEMP-**
15 **TION.**

16 (a) **RULE OF CONSTRUCTION.**—Nothing in this Act
17 shall prevent a State, local, or territorial law enforcement
18 or emergency service agency from procuring or operating
19 a covered unmanned aircraft system purchased with non-
20 Federal dollars.

21 (b) **CONTINUITY OF ARRANGEMENTS.**—The Federal
22 Government may continue entering into contracts, grants,
23 and cooperative agreements or other Federal funding in-
24 struments with State, local, or territorial law enforcement
25 or emergency service agencies under which a covered un-

1 manned aircraft system will be purchased or operated if
2 the agency has received approval or waiver to purchase
3 or operate a covered unmanned aircraft system pursuant
4 to section 5.

5 **SEC. 11. STUDY.**

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

8 (1) REPORT REQUIRED.—Not later than one
9 year after the date of the enactment of this Act, the
10 Under Secretary of Defense for Acquisition and
11 Sustainment shall provide to the appropriate con-
12 gressional committees a report on the supply chain
13 for covered unmanned aircraft systems, including a
14 discussion of current and projected future demand
15 for covered unmanned aircraft systems.

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

18 (A) A description of the current and future
19 global and domestic market for covered un-
20 manned aircraft systems that are not widely
21 commercially available except from a covered
22 foreign entity.

23 (B) A description of the sustainability,
24 availability, cost, and quality of secure sources
25 of covered unmanned aircraft systems domesti-

1 cally and from sources in allied and partner
2 countries.

3 (C) The plan of the Secretary of Defense
4 to address any gaps or deficiencies identified in
5 subparagraph (B), including through the use of
6 funds available under the Defense Production
7 Act of 1950 (50 U.S.C. 4501 et seq.) and part-
8 nerships with the National Aeronautics and
9 Space Administration and other interested per-
10 sons.

11 (D) Such other information as the Under
12 Secretary of Defense for Acquisition and
13 Sustainment determines to be appropriate.

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

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

19 (B) The Committee on Homeland Security
20 and Governmental Affairs of the Senate and the
21 Committee on Oversight and Reform of the
22 House of Representatives.

23 (C) The Committee on Commerce, Science,
24 and Transportation of the Senate and the Com-

1 committee on Science, Space, and Technology of
2 the House of Representatives.

3 (D) The Select Committee on Intelligence
4 of the Senate and the Permanent Select Com-
5 mittee on Intelligence of the House of Rep-
6 resentatives.

7 (E) The Committee on Transportation and
8 Infrastructure of the House of Representatives.

9 (F) The Committee on Homeland Security
10 of the House of Representatives.

11 **SEC. 12. EXCEPTIONS.**

12 (a) EXCEPTION FOR WILDFIRE MANAGEMENT OPER-
13 ATIONS AND SEARCH AND RESCUE OPERATIONS.—The
14 appropriate Federal agencies, in consultation with the Sec-
15 retary of Homeland Security, are exempt from the pro-
16 curement and operation restrictions under sections 3, 4,
17 and 5 to the extent the procurement or operation is nec-
18 essary for the purpose of supporting the full range of wild-
19 fire management operations or search and rescue oper-
20 ations.

21 (b) EXCEPTION FOR INTELLIGENCE ACTIVITIES.—
22 The elements of the intelligence community, in consulta-
23 tion with the Director of National Intelligence, are exempt
24 from the procurement and operation restrictions under
25 sections 3, 4, and 5 to the extent the procurement or oper-

1 ation is necessary for the purpose of supporting intel-
2 ligence activities.

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

12 **SEC. 13. SUNSET.**

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

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