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(Original Signature of Member)

118TH CONGRESS
2D SESSION

H. R. _____

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

M____. _____ introduced the following bill; which was referred to the
Committee on _____

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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Protecting Americans
3 from Foreign Adversary Controlled Applications Act”.

4 **SEC. 2. PROHIBITION OF FOREIGN ADVERSARY CON-**
5 **TROLLED APPLICATIONS.**

6 (a) IN GENERAL.—

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

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

22 (B) Providing internet hosting services to
23 enable the distribution, maintenance, or updat-
24 ing of such foreign adversary controlled applica-
25 tion for users within the land or maritime bor-
26 ders of the United States.

1 (2) APPLICABILITY.—Subsection (a) shall
2 apply—

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

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

15 (b) DATA AND INFORMATION PORTABILITY TO AL-
16 TERNATIVE APPLICATIONS.—Before the date on which a
17 prohibition under subsection (a) applies to a foreign adver-
18 sary controlled application, the entity that owns or con-
19 trols such application shall provide, upon request by a user
20 of such application within the land or maritime borders
21 of United States, to such user all the available data related
22 to the account of such user with respect to such applica-
23 tion. Such data shall be provided in a machine readable
24 format and shall include any data maintained by such ap-
25 plication with respect to the account of such user, includ-

1 ing content (including posts, photos, and videos) and all
2 other account information.

3 (c) EXEMPTIONS.—

4 (1) EXEMPTIONS FOR QUALIFIED
5 DIVESTITURES.—Subsection (a)—

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

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

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

21 (d) ENFORCEMENT.—

22 (1) CIVIL PENALTIES.—

23 (A) FOREIGN ADVERSARY CONTROLLED
24 APPLICATION VIOLATIONS.—An entity that vio-
25 lates subsection (a) shall be subject to pay a

1 civil penalty in an amount not to exceed the
2 amount that results from multiplying \$5,000 by
3 the number of users within the land or mari-
4 time borders of the United States determined to
5 have accessed, maintained, or updated a foreign
6 adversary controlled application as a result of
7 such violation.

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

15 (2) ACTIONS BY ATTORNEY GENERAL.—The At-
16 torney General—

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

23 (B) may bring an action in an appropriate
24 district court of the United States for appro-
25 priate relief, including civil penalties under

1 paragraph (1) or declaratory and injunctive re-
2 lief.

3 (e) SEVERABILITY.—

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

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

19 (f) RULE OF CONSTRUCTION.—Nothing in this Act
20 may be construed—

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

24 (2) to authorize the Attorney General to pursue
25 enforcement, under this section, against an indi-

1 vidual user of a foreign adversary controlled applica-
2 tion; or

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

6 (g) DEFINITIONS.—In this section:

7 (1) CONTROLLED BY A FOREIGN ADVERSARY.—

8 The term “controlled by a foreign adversary” means,
9 with respect to a covered company or other entity,
10 that such company or other entity is—

11 (A) a foreign person that is domiciled in,
12 is headquartered in, has its principal place of
13 business in, or is organized under the laws of
14 a foreign adversary country;

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

19 (C) a person subject to the direction or
20 control of a foreign person or entity described
21 in subparagraph (A) or (B).

22 (2) COVERED COMPANY.—

23 (A) IN GENERAL.—The term “covered
24 company” means an entity that operates, di-
25 rectly or indirectly (including through a parent

1 company, subsidiary, or affiliate), a website,
2 desktop application, mobile application, or aug-
3 mented or immersive technology application
4 that—

5 (i) permits a user to create an ac-
6 count or profile to generate, share, and
7 view text, images, videos, real-time commu-
8 nications, or similar content;

9 (ii) has more than 1,000,000 monthly
10 active users with respect to at least 2 of
11 the 3 months preceding the date on which
12 a relevant determination of the President
13 is made pursuant to paragraph (3)(B);

14 (iii) enables 1 or more users to gen-
15 erate or distribute content that can be
16 viewed by other users of the website, desk-
17 top application, mobile application, or aug-
18 mented or immersive technology applica-
19 tion; and

20 (iv) enables 1 or more users to view
21 content generated by other users of the
22 website, desktop application, mobile appli-
23 cation, or augmented or immersive tech-
24 nology application.

1 (B) EXCLUSION.—The term “covered com-
2 pany” does not include an entity that operates
3 a website, desktop application, mobile applica-
4 tion, or augmented or immersive technology ap-
5 plication whose primary purpose is to allow
6 users to post product reviews, business reviews,
7 or travel information and reviews.

8 (3) FOREIGN ADVERSARY CONTROLLED APPLI-
9 CATION.—The term “foreign adversary controlled
10 application” means a website, desktop application,
11 mobile application, or augmented or immersive tech-
12 nology application that is operated, directly or indi-
13 rectly (including through a parent company, sub-
14 sidiary, or affiliate), by—

15 (A) any of—

16 (i) ByteDance, Ltd.;

17 (ii) TikTok;

18 (iii) a subsidiary of or a successor to
19 an entity identified in clause (i) or (ii) that
20 is controlled by a foreign adversary; or

21 (iv) an entity owned or controlled, di-
22 rectly or indirectly, by an entity identified
23 in clause (i), (ii), or (iii); or

24 (B) a covered company that—

1 (i) is controlled by a foreign adver-
2 sary; and

3 (ii) that is determined by the Presi-
4 dent to present a significant threat to the
5 national security of the United States fol-
6 lowing the issuance of—

7 (I) a public notice proposing such
8 determination; and

9 (II) a public report to Congress,
10 submitted not less than 30 days be-
11 fore such determination, describing
12 the specific national security concern
13 involved and containing a classified
14 annex and a description of what as-
15 sets would need to be divested to exe-
16 cute a qualified divestiture.

17 (4) FOREIGN ADVERSARY COUNTRY.—The term
18 “foreign adversary country” means a country speci-
19 fied in section 4872(d)(2) of title 10, United States
20 Code.

21 (5) INTERNET HOSTING SERVICE.—The term
22 “internet hosting service” means a service through
23 which storage and computing resources are provided
24 to an individual or organization for the accommoda-
25 tion and maintenance of 1 or more websites or on-

1 line services, and which may include file hosting, do-
2 main name server hosting, cloud hosting, and virtual
3 private server hosting.

4 (6) QUALIFIED DIVESTITURE.—The term
5 “qualified divestiture” means a divestiture or similar
6 transaction that—

7 (A) the President determines, through an
8 interagency process, would result in the relevant
9 covered company no longer being controlled by
10 a foreign adversary; and

11 (B) the President determines, through an
12 interagency process, precludes the establish-
13 ment or maintenance of any operational rela-
14 tionship between the United States operations
15 of the relevant foreign adversary controlled ap-
16 plication and any formerly affiliated entities
17 that are controlled by a foreign adversary, in-
18 cluding any cooperation with respect to the op-
19 eration of a content recommendation algorithm
20 or an agreement with respect to data sharing.

21 (7) SOURCE CODE.—The term “source code”
22 means the combination of text and other characters
23 comprising the content, both viewable and
24 nonviewable, of a software application, including any
25 publishing language, programming language, pro-

1 ocol, or functional content, as well as any successor
2 languages or protocols.

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

5 **SEC. 3. JUDICIAL REVIEW.**

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

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

14 (c) STATUTE OF LIMITATIONS.—A challenge may
15 only be brought—

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

19 (2) in the case of a challenge to any action,
20 finding, or determination under this Act, not later
21 than 90 days after the date of such action, finding,
22 or determination.