

AMENDMENT TO RULES COMM. PRINT 117-54

OFFERED BY MR. BUCK OF COLORADO

At the end of division E, add the following:

1 **TITLE LIX—CODIFICATION OF**
2 **DENIAL OF EXPORT PRIVI-**
3 **LEGES AND RELATED PROVI-**
4 **SIONS UNDER TITLE 15, CODE**
5 **OF FEDERAL REGULATIONS**

6 **SEC. 5901. FINDINGS.**

7 Congress finds the following:

8 (1) The Founders of the United States viewed
9 intellectual property rights as fundamental rights
10 that must be protected by the government.

11 (2) Article I, section 8, clause 8 of the United
12 States Constitution affirmatively defends the individ-
13 ual’s right to protect intellectual property by grant-
14 ing Congress power “to promote the Progress of
15 Science and Useful arts, by securing, for limited
16 Times, to Authors and Inventors, the exclusive Right
17 to their respective Writings and Discoveries”.

18 (3) The Commission on the Theft of American
19 Intellectual Property estimates that intellectual

1 property theft costs the United States economy ap-
2 proximately \$600 billion annually.

3 (4) A March 1, 2019, CNBC poll found that
4 one-in-five United States corporations say that
5 China has stolen proprietary intellectual property
6 within the last year and one-in-three United States
7 corporations state that China has stolen their intel-
8 lectual property within the last decade.

9 (5) The Commission on the Theft of American
10 Intellectual Property further reports that China's in-
11 dustrial policies call for the "absorption, digestion,
12 and re-innovation of foreign intellectual property to
13 meet the Made in China 2025 goal of 40 percent
14 self-sufficiency by 2020 and 75 percent by 2025".

15 (6) The Chinese Government remains the
16 world's principle source of intellectual property theft.

17 (7) China engages in foreign ownership restric-
18 tions that include joint venture requirements and ad-
19 ministrative reviews that pressure United States
20 companies to transfer intellectual property and pro-
21 prietary technology to Chinese companies.

22 (8) China imposes harmful contractual obliga-
23 tions on United States companies seeking to license
24 their proprietary technology to Chinese-based firms
25 and is engaged in a purposeful and unfair practice

1 of acquiring United States businesses to generate
2 technology transfers.

3 (9) The Chinese Government is engaged in
4 cyberattacks against United States businesses, mili-
5 tary installations, and government entities, including
6 the United States Office of Personnel Management,
7 resulting in the theft of untold proprietary informa-
8 tion and commercial trade secrets.

9 (10) China is undertaking the “greatest intel-
10 lectual property theft in human history” according
11 to former Secretary of Defense Mark Esper.

12 (11) Congress must take bold action to combat
13 the Chinese Government’s concerted efforts to per-
14 petrate cyber-attacks against United States entities
15 and steal United States intellectual property.

16 (12) Denial orders are issued by the Assistant
17 Secretary of Commerce for Export Enforcement of
18 the Bureau of Industry and Security to deny the ex-
19 port privileges of an entity or individual. A denial of
20 export privileges prohibits the person from partici-
21 pating in any way in any transaction subject to the
22 Export Administration Regulations (EAR). Further-
23 more, it is unlawful for any other entity or indi-
24 vidual to participate in any way in an export trans-

1 action subject to the EAR with a person subject to
2 a denial order.

3 (13) On April 16, 2018, former Secretary of
4 Commerce Wilbur Ross announced that the Bureau
5 of Industry and Security of the Department of Com-
6 merce had issued an order to deny the export privi-
7 leges of Zhongxing Telecommunications Equipment
8 Corporation of Shenzhen, China (“ZTE Corpora-
9 tion”) and ZTE Kangxun Telecommunications Ltd.
10 of Hi-New Shenzhen, China.

11 **SEC. 5902. SENSE OF CONGRESS.**

12 It is the sense of Congress that—

13 (1) denial orders are an important foreign poli-
14 cy tool to use against foreign entities and individ-
15 uals, especially Chinese persons, with a pattern of
16 violating United States laws, especially laws relating
17 to intellectual property; and

18 (2) the Department of Commerce should vigor-
19 ously utilize denial orders to hold such persons ac-
20 countable.

21 **SEC. 5903. STRATEGY.**

22 Not later than one year after the date of the enact-
23 ment of this Act, the Secretary of Commerce, in consulta-
24 tion with the Secretary of State, the Secretary of Treas-
25 ury, and Attorney General, shall submit to Congress a

1 strategy regarding how denial orders issued by the Bureau
2 of Industry and Security of the Department of Commerce
3 to deny the export privileges of foreign entities and indi-
4 viduals, especially entities and individuals located in
5 China, can be better utilized as part of a holistic approach
6 to hold such entities and individuals accountable for theft
7 of United States intellectual property.

8 **SEC. 5904. CODIFICATION OF DENIAL OF EXPORT PRIVI-**
9 **LEGES AND RELATED PROVISIONS UNDER**
10 **TITLE 15, CODE OF FEDERAL REGULATIONS.**

11 The provisions of part 730 of title 15, Code of Fed-
12 eral Regulations, relating to general information, and sec-
13 tion 766.25 of such title, relating to administrative action
14 denying export privileges, are hereby enacted into law.

