

**AMENDMENT TO RULES COMM. PRINT 119–33**  
**OFFERED BY MR. KRISHNAMOORTHY OF ILLINOIS**

At the end of title XVII, insert the following:

1 **Subtitle C—Stopping Adversaries**  
2 **From Exploiting LiDAR**

3 **SEC. 1731. PROHIBITION.**

4 (a) IN GENERAL.—

5 (1) LIMITATION ON FUTURE TRANSACTIONS.—

6 Except as otherwise provided under subsections (b),  
7 (c), or (d), beginning on the date that is three years  
8 after the date of enactment of this Act, a covered  
9 person, or any person knowingly engaging in a  
10 transaction with or on behalf of a covered person,  
11 shall not engage in a transaction that results in the  
12 use of covered foreign adversary light detection and  
13 ranging technology in the United States.

14 (2) LIMITATION ON CRITICAL INFRASTRUCTURE  
15 OR FEDERAL GOVERNMENT USE.—Except as other-  
16 wise provided under subsections (b), (c), or (d), a  
17 critical infrastructure operator or Federal Govern-  
18 ment entity shall not use covered foreign adversary  
19 light detection and ranging technology in the United  
20 States—

1 (A) in the case of a product or system in  
2 use by such user prior to the date of enactment  
3 of this Act, beginning on the date that is 5  
4 years after the date of enactment; or

5 (B) in the case of a product or system not  
6 in use by such user on the date of enactment  
7 of this Act, beginning on the date of enactment  
8 of this Act.

9 (b) WAIVER.—

10 (1) IN GENERAL.—The Secretary of Commerce  
11 may waive the prohibition under—

12 (A) subsection (a)(1) if he determines, on  
13 a case-by-case basis that—

14 (i) the issuance of such a waiver is in  
15 the national interest of the United States;

16 or

17 (ii) that the failure to issue such waiv-  
18 er would—

19 (I) cause undue hardship to a  
20 given United States customer or user  
21 of a given covered foreign adversary  
22 light detection and ranging technology  
23 that is disproportionate to the na-  
24 tional security benefit achieved

1 through the application of the prohibi-  
2 tion; and

3 (II) such waiver is non-renewable  
4 and the duration of such waiver does  
5 not exceed three years; and

6 (B) subsection (a)(2), on a case-by-case  
7 basis, if he determines that the issuance of such  
8 a waiver is—

9 (i) in the national security interests of  
10 the United States; or

11 (ii) necessary to avoid the cessation of  
12 a critical infrastructure or government  
13 function, and the operator or entity pro-  
14 viding such function enters into a mitiga-  
15 tion agreement with the Secretary out-  
16 lining a plan for eliminating the prohibited  
17 technology or, if elimination is impracti-  
18 cable, mitigating the national security risks  
19 associated with its continued use.

20 (2) PROCEDURE.—Not later than the effective  
21 date of any prohibition under this Act, the Secretary  
22 of Commerce shall establish procedures and regula-  
23 tions governing the issuance of waivers under this  
24 subsection.

25 (c) EXEMPTIONS.—

1           (1) IN GENERAL.—The prohibitions under sub-  
2           section (a) shall not apply in the case of—

3                   (A) testing, evaluation, or cybersecurity ac-  
4                   tivities by or on behalf of the United States  
5                   Government;

6                   (B) the acquisition of a covered foreign ad-  
7                   versary light detection and ranging technology  
8                   for academic or research purposes;

9                   (C) the acquisition of a covered foreign ad-  
10                  versary light detection and ranging technology  
11                  for purposes of integration into a product man-  
12                  ufactured, assembled, or otherwise developed in  
13                  the United States, provided such products are  
14                  exported outside of the United States and such  
15                  covered foreign adversary light detection and  
16                  ranging technology is not used in the United  
17                  States; or

18                  (D) the use of a product, including an air-  
19                  plane or automobile, containing a covered for-  
20                  eign adversary light detection and ranging tech-  
21                  nology in contexts where the principal purpose  
22                  of such usage is the provision of passenger or  
23                  cargo transportation services between the  
24                  United States and a different country.

1           (2) LEGACY PRODUCTS AND SYSTEMS.—The  
2 prohibitions under subsection (a)(1) shall not apply  
3 in the case of—

4           (A) a discrete product in use within the  
5 United States prior to the date on which said  
6 prohibition is effective, or any covered foreign  
7 adversary light detection and ranging tech-  
8 nology subsequently necessary to replace a cov-  
9 ered foreign adversary light detection and rang-  
10 ing technology in said product; or

11           (B) the resale, lease, or use of any product  
12 containing covered foreign adversary light de-  
13 tection and ranging technology if such tech-  
14 nology was integrated into said discrete product  
15 prior to the effective date of a relevant prohibi-  
16 tion under this Act.

17 (d) EXTENSION.—

18           (1) IN GENERAL.—The Secretary of Commerce  
19 shall grant a two-year extension of the effective date  
20 of the prohibition under subsection (a)(1) in the  
21 event that he determines that alternative sources of  
22 light detection and ranging technology are produced  
23 in an insufficient quantity to meet domestic demand.  
24 Following an initial extension, additional extensions  
25 of 180 days may be granted, but only upon a de

1        novo finding of the Secretary of Commerce of insuf-  
2        ficient alternative supplies prior to the issuance of  
3        each such extension.

4            (2) REVIEW.—Any extension under paragraph  
5        (1) shall be subject to challenge for factual error in  
6        a district court of competent jurisdiction.

7        (e) RULES OF CONSTRUCTION.—Nothing in this Act  
8        shall be interpreted to—

9            (1) preclude, preempt, or abridge the establish-  
10        ment of any other limitation or restriction on cov-  
11        ered foreign adversary light detection and ranging  
12        technology established under other authorities, in-  
13        cluding but not limited to such limitations or restric-  
14        tions that may be promulgated pursuant to State  
15        law or existing or future authorities of the Secretary  
16        of Commerce or the Office of Information and Com-  
17        munications Technology and Services;

18            (2) permit an existing joint venture, licensing  
19        agreement, technology partnership, or other com-  
20        parable contractual arrangement with a company  
21        that produces, designs, or otherwise controls covered  
22        foreign adversary light detection and ranging tech-  
23        nology to be expanded by means of a prohibited  
24        transaction; or

1           (3) prohibit the use of covered foreign adver-  
2           sary light detection and ranging technology by a  
3           United States person utilizing such technology out-  
4           side of the United States.

5 **SEC. 1732. LIMITATION ON ADVERSARY PARTNERSHIPS.**

6           (a) IN GENERAL.—

7           (1) LIMITATION.—Except as provided for under  
8           subsections (b) or (c), beginning on the date of en-  
9           actment of this Act, it shall be unlawful for any cov-  
10          ered person, or person knowingly engaging in a  
11          transaction with or on behalf of a covered person, to  
12          enter into any joint venture, licensing agreement,  
13          technology partnership, or other comparable contrac-  
14          tual arrangement with a company that produces, de-  
15          signs, or otherwise controls covered foreign adver-  
16          sary light detection and ranging technology for the  
17          purpose of—

18                   (A) manufacturing, assembling, or devel-  
19                   oping light detection and ranging technology  
20                   that is or is derivative of covered foreign adver-  
21                   sary light detection and ranging technology for  
22                   use in the United States;

23                   (B) licensing intellectual property of a cov-  
24                   ered foreign adversary light detection and rang-

1           ing technology for use in products intended to  
2           be used in the United States; or

3           (C) facilitating the design, production, or  
4           deployment of light detection and ranging tech-  
5           nology for use in the United States.

6           (2) RULE OF CONSTRUCTION.—The limitation  
7           described in paragraph (1) shall not be interpreted  
8           to limit ventures, agreements, partnerships, or other  
9           arrangements that involve the use of covered foreign  
10          adversary light detection and ranging technology in  
11          the United States for research purposes, or in con-  
12          nection with the development, manufacturing, or as-  
13          sembly of products that are intended for export and  
14          that will not be sold or leased in the United States.

15          (b) EXCEPTION.—Notwithstanding subsection (a), a  
16          person, including a covered person, is permitted to—

17               (1) engage in a transaction and enter into an  
18               agreement that results in an adversary affiliation  
19               termination event with respect to a covered foreign  
20               adversary light detection and ranging technology;  
21               and

22               (2) fulfill any existing responsibilities or obliga-  
23               tions under any joint venture, licensing agreement,  
24               technology partnership, or other comparable contrac-  
25               tual arrangement established prior to the date of en-

1 actment of this Act, except in the case of such a  
2 venture, agreement, partnership, or other arrange-  
3 ment that was entered into with the intent of frus-  
4 trating a material purpose of this Act.

5 (c) PRESUMPTION.—A joint venture, licensing agree-  
6 ment, technology partnership, or other comparable con-  
7 tractual arrangement described under subsection (a)(1)  
8 shall be presumed to be intended to frustrate a material  
9 purpose of this Act if entered into during the 180-day pe-  
10 riod immediately preceding the date of enactment of this  
11 Act, except as otherwise demonstrated by a preponderance  
12 of the evidence.

13 **SEC. 1733. ENFORCEMENT.**

14 (a) ENFORCEMENT OF PROHIBITIONS.—

15 (1) CIVIL PENALTY.—Any covered person who  
16 violates, attempts to violate, conspires to violate, or  
17 causes any knowing violation of section 1731(a)  
18 shall be subject to a civil penalty not to exceed the  
19 greater of—

20 (A) \$250,000; or

21 (B) an amount that is twice the amount of  
22 the transaction that is the basis of the violation  
23 with respect to which the penalty is imposed..

24 (2) INJUNCTIVE RELIEF.—The Secretary of  
25 Commerce may seek a declaratory judgment requir-

1       ing any person (including a covered person or a crit-  
2       ical infrastructure operator) who violates, attempts  
3       to violate, conspires to violate, or causes any viola-  
4       tion of section 1731 to cease, unwind, or otherwise  
5       terminate any violative transaction, use, or action in  
6       furtherance of the foregoing. Such an action may be  
7       brought in any district court of competent jurisdic-  
8       tion or the district court for the District of Colum-  
9       bia.

10       (b) ENFORCEMENT OF LIMITATION.—Any joint ven-  
11       ture, licensing agreement, technology partnership, or com-  
12       parable contractual arrangement in violation of section  
13       1732 may be blocked, unwound, or otherwise prohibited.

14       (c) PROCEDURE.—Prior to any enforcement action  
15       under this Act, the Secretary of Commerce shall provide  
16       the violating party with a written explanation of the viola-  
17       tive conduct specifying the laws and regulations allegedly  
18       violated and the amount or nature of the proposed penalty  
19       or action, and notifying the recipient of a right to make  
20       a written petition within 30 days as to why a penalty  
21       should not be imposed or such action should not be under-  
22       taken.

23       (d) NON-EXCLUSIVITY OF REMEDIES.—Nothing in  
24       this section shall be interpreted to limit or abridge such

1 other enforcement authorities of the Federal Government  
2 that may exist pursuant to other authorities.

3 **SEC. 1734. TRANSITION MITIGATION.**

4 (a) ASSISTANCE TO CUSTOMERS AND USERS.—

5 (1) PROGRAM.—Not later than 90 days after  
6 the date of enactment, the Secretary of Commerce  
7 shall establish and thereafter maintain a program  
8 to—

9 (A) conduct outreach to stakeholders to fa-  
10 cilitate compliance with this Act;

11 (B) issue guidance on compliance, and in-  
12 corporate feedback from end users impacted by  
13 the Act into such guidance; and

14 (C) establish procedures for entities to  
15 seek waivers or clarifications under this Act.

16 (2) AUTONOMOUS VEHICLE AND ROBOTICS EX-  
17 PERTISE.—The Secretary of Commerce shall des-  
18 ignate not less than two individuals, one of whom  
19 must have substantial expertise in autonomous driv-  
20 ing systems and one of whom must have substantial  
21 expertise in robotics, responsible for accepting and  
22 reviewing petitions by customers or users of covered  
23 foreign adversary light detection and ranging tech-  
24 nology that develop products that incorporate such  
25 technology who contend that their development or

1 production of such product is dependent on contin-  
2 ued access to the prohibited technology, and to—

3 (A) determine whether such contentions  
4 are supported by technical evidence, and if so  
5 proven, whether a waiver of such prohibition  
6 would be in the national interest of the United  
7 States; and

8 (B) suggest technical benchmarks or other  
9 indicators that would warrant a rescission or ex-  
10 tension of such a waiver.

11 (b) **ADVISORY OPINIONS.**—Upon petition of a cus-  
12 tomer or user likely to be impacted by this Act, the Sec-  
13 retary of Commerce shall issue advisory opinions regard-  
14 ing whether their continued use of covered foreign adver-  
15 sary light detection and ranging technology is likely to  
16 warrant a waiver under this Act, which shall be provided  
17 to such a customer or user not later than 180 days after  
18 the submission of such a request.

19 (c) **NATIONAL SECURITY TASK FORCE.**—

20 (1) **IN GENERAL.**—Not later than 90 days after  
21 the date of enactment of this Act, the Secretary  
22 shall establish and thereafter maintain a task force  
23 to address the national security risks associated with  
24 covered foreign adversary light detection and rang-  
25 ing technology—

1 (A) that remains in use following the effec-  
2 tive dates of prohibitions under this Act, wheth-  
3 er by means of waiver, exemption, extension, or  
4 violation; or

5 (B) that is in use during the period of time  
6 following the date of enactment and the rel-  
7 evant effective dates of prohibitions under this  
8 Act.

9 (2) MANDATE.—The task force shall—

10 (A) engage with customers and users of  
11 covered foreign adversary light detection and  
12 ranging technology regarding national security  
13 risks and potential partial mitigation measures;  
14 and

15 (B) work with appropriate elements of the  
16 Intelligence Community and law enforcement  
17 to, in appropriate instances, share information  
18 with such customers and users regarding na-  
19 tional security risks associated with their use of  
20 foreign adversary light detection and ranging  
21 technology.

22 **SEC. 1735. DEFINITIONS.**

23 (a) ADVERSARY AFFILIATION TERMINATION  
24 EVENT.—

1           (1) CRITERIA.—The term “adversary affiliation  
2           termination event” shall refer to a transaction and  
3           agreement that constitutes a full and absolute di-  
4           vestment of any interest in a foreign adversary light  
5           detection and ranging technology, or full and abso-  
6           lute sale of any interest in a company that controls  
7           such technology, provided such transaction and  
8           agreement—

9                   (A) is approved by the Secretary of Com-  
10                   merce pursuant to paragraph (2);

11                   (B) results in a person or group of persons  
12                   who are not affiliated with a foreign adversary  
13                   country (whether by domicile, citizenship, prin-  
14                   cipal place of business, or otherwise) obtaining  
15                   full control over the corresponding technology,  
16                   or as applicable, company;

17                   (C) eliminates any national security threat  
18                   associated with such technology, including the  
19                   transmission of any data collected or processed  
20                   by the technology to a foreign adversary coun-  
21                   try; and

22                   (D) results in a full transfer of any intel-  
23                   lectual property in such technology to a person  
24                   in the United States or a country otherwise des-  
25                   ignated as a trusted partner of the United

1 States pursuant to a notice and comment rule-  
2 making of the Secretary of Commerce, except to  
3 the extent such a designation would contradict  
4 subsection (e).

5 (2) APPROVAL.—The Secretary of Commerce  
6 shall only issue an approval under the preceding  
7 paragraph if the petitioning applicant demonstrates  
8 by clear and convincing evidence that the cor-  
9 responding termination event eliminates the national  
10 security threat associated with such technology and  
11 results in full control of such technology, including  
12 any intellectual property or data collected or proc-  
13 essed by the technology, by persons not affiliated  
14 with a foreign adversary country.

15 (3) REVIEW.—Any determination of the Sec-  
16 retary of Commerce under paragraph (2) may be  
17 challenged in a district court of competent jurisdic-  
18 tion by an impacted party, including a company, or  
19 any shareholder thereof, that operates in a similar  
20 or related business as a petitioning party.

21 (b) COVERED PERSON.—

22 (1) IN GENERAL.—The term “covered person”  
23 shall refer to any person that directly or indirectly  
24 engages in commerce or other activities that facili-  
25 tate commerce—

1 (A) related to light detection and ranging  
2 technology;

3 (B) related to products, services, or infra-  
4 structure that contain, may contain, incor-  
5 porate, or facilitate the production or develop-  
6 ment of such technology; or

7 (C) that routinely utilizes light detection  
8 and ranging technology, or routinely utilizes  
9 products or services that contain, may contain,  
10 incorporate, or facilitate the production or de-  
11 velopment of such technology, in their ordinary  
12 course of business.

13 (2) LIMITATION.—The term “covered person”  
14 shall not be interpreted to include a natural person  
15 that utilizes a product containing covered foreign ad-  
16 versary light detection and ranging technology for  
17 personal or incidental business purposes, without the  
18 intent to circumvent or otherwise abridge a material  
19 purpose of this Act.

20 (3) EVASION.—The term “covered person”  
21 shall be interpreted to include any corporate or other  
22 structure established or operated with the primary  
23 intent of circumventing a material purpose of this  
24 Act.

1 (c) COVERED FOREIGN ADVERSARY LIGHT DETEC-  
2 TION AND RANGING TECHNOLOGY.—

3 (1) IN GENERAL.—The term “covered foreign  
4 adversary light detection and ranging technology”  
5 shall refer to any sensor, system, hardware, soft-  
6 ware, or integrated component that uses light detec-  
7 tion and ranging to collect, process, or interpret en-  
8 vironmental data, including by means of a pulsed or  
9 modulated laser, if such technology was developed,  
10 distributed, and manufactured by—

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 25 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) EXCEPTION.—The term “covered foreign  
23 adversary light detection and ranging technology”  
24 does not include a technology that no longer con-  
25 stitutes a foreign adversary light detection and rang-

1 ing technology as a result of an adversary affiliation  
2 termination event.

3 (d) CRITICAL INFRASTRUCTURE OPERATOR.—

4 (1) IN GENERAL.—The term “critical infra-  
5 structure operator” shall refer to any operator, or  
6 contractor acting on behalf of an operator, of critical  
7 infrastructure as such term is interpreted by the  
8 Secretary of Commerce pursuant to the public notice  
9 required under paragraph (2).

10 (2) PUBLIC NOTICE.—Not less than annually,  
11 the Secretary of Commerce shall publish a docu-  
12 ment, using the definition provided for under section  
13 5195c(e) of title 42, United States Code, describing  
14 the sectors or, as appropriate, functions that are  
15 considered critical infrastructure for purposes of this  
16 Act.

17 (3) MINIMUM REQUIRED SECTORS.—The an-  
18 nual document required under paragraph (2), with-  
19 out prejudice to such other sectors or functions that  
20 the Secretary of Commerce may designate, shall in  
21 all cases include—

22 (A) the operation or inspection of water,  
23 wastewater, power, or other electric utilities or  
24 related generation or transmission infrastruc-  
25 ture;

1 (B) the use of digital technology, data, and  
2 connected systems to coordinate municipal or  
3 other similar functions, including the operation  
4 of systems commonly known as smart city sys-  
5 tems or systems to regulate traffic or other re-  
6 lated functions; or

7 (C) the operation or inspection of an air-  
8 port, seaport, railway, or other transportation  
9 asset.

10 (e) FOREIGN ADVERSARY COUNTRY.—The term  
11 “foreign adversary country” means the People’s Republic  
12 of China, the Russian Federation, the Islamic Republic  
13 of Iran, and the Democratic People’s Republic of Korea.

14 **SEC. 1736. REPORTING REQUIREMENT.**

15 Not later than one year after the date of enactment  
16 of this Act, and annually thereafter, the Secretary of Com-  
17 merce shall submit a report to Congress, which may con-  
18 tain a classified annex, that describes—

19 (1) all regulatory or enforcement actions under-  
20 taken pursuant to the Act;

21 (2) any waivers granted under the Act, includ-  
22 ing identifying information regarding the products  
23 and persons subject to such waivers;

24 (3) emerging national security threats related  
25 to light detection and ranging technology; and

1           (4) any efforts of the People's Republic of  
2           China, or an entity based therein, to circumvent or  
3           otherwise frustrate a material purpose of this Act.

