

AMENDMENT TO RULES COMMITTEE PRINT 118-

36

OFFERED BY MR. MOOLENAAR OF MICHIGAN

At the end of subtitle B of title II, insert the following new section:

1 **SEC. 2___ . OPEN SOURCE SOFTWARE SECURITY TECH-**
2 **NOLOGY CENTER.**

3 (a) **ESTABLISHMENT.**—The Secretary of Defense
4 shall seek to enter into an agreement with a federally
5 funded research and development center to establish an
6 Open Source Software Security Technology Center (re-
7 ferred to in this section as the “Center”).

8 (b) **DIRECTOR.**—There shall be a Director of the
9 Center (referred to in this section as the “Director”) , who
10 shall be selected by the federally funded research center
11 that receives the award to establish the Center. The selec-
12 tion of the Director shall be subject to the approval of
13 the Secretary of Defense.

14 (c) **ACTIVITIES.**—The Center shall—

15 (1) conduct regular building, security testing,
16 and validation of open source software important for
17 United States national security or defense infra-
18 structure security;

1 (2) develop and publish software updates for
2 identified vulnerabilities in open source software to
3 facilitate widespread patching;

4 (3) operate or support elements of open source
5 software in cases in which such support is deter-
6 mined by the Center, with the concurrence of the
7 Secretary of Defense, to be vital to United States
8 national security or defense infrastructure security;

9 (4) establish an organized and automated
10 framework that facilitates the execution of the meth-
11 od of software security testing known as “fuzz test-
12 ing” under which software is subjected to a variety
13 of randomly generated, invalid, or unexpected inputs
14 with the objective of identifying potential security
15 vulnerabilities, bugs, or other functional defects;

16 (5) collaborate with the Department of Defense
17 to assess and quantify threats to open source soft-
18 ware;

19 (6) collaborate with nonprofit organizations
20 that manage key open source security projects or de-
21 fine or operate critical services, directly or indirectly,
22 that enable safe use of open source software;

23 (7) operate, directly or indirectly, services that
24 enable regular building and testing of critical open
25 source software packages; and

1 (8) operate or support elements of open source
2 software in cases in which such support is deter-
3 mined by the Center, with concurrence of the Sec-
4 retary of Defense, to be vital to United States na-
5 tional security or defense infrastructure security.

6 (d) **SAFE HARBOR.**—Notwithstanding any other pro-
7 vision of law, it shall be a defense to a criminal prosecution
8 or civil lawsuit under section 1030 of title 18, United
9 States Code, and section 1201 of title 17, United States
10 Code, if—

11 (1) the conduct constituting the offense was
12 within the scope of an authorization provided by the
13 Director to carry out duties in furtherance of an ac-
14 tivity specified in subsection (e); and

15 (2) any conduct exceeding the scope of such au-
16 thorization was unintentional and in good faith and
17 does not include conduct that intentionally or reck-
18 lessly causes—

19 (A) the modification or impairment, or po-
20 tential modification or impairment, of the med-
21 ical examination, diagnosis, treatment, or care
22 of one or more individuals;

23 (B) physical injury to any person;

24 (C) a threat to public health or safety;

1 (D) damage affecting a computer used by
2 or for an entity of the United States Govern-
3 ment in furtherance of the administration of
4 justice, national defense, or national security; or
5 (E) damage affecting 10 or more protected
6 computers during any one-year period.

7 (e) CHARTER AND RULES.—Subject to the approval
8 of the Secretary of Defense, the Director shall—

- 9 (1) establish a Charter for the Center; and
10 (2) propose rules for carrying out the activities
11 of the Center as described in subsection (c).

12 (f) DEADLINE.—Not later than two years after the
13 date of the enactment of this Act, the Director shall—

- 14 (1) finalize the Charter and rules required
15 under subsection (e); and
16 (2) commence operations of the Center.

17 (g) ANNUAL REPORTS.—On an annual basis, the Di-
18 rector shall submit to the Secretary of Defense a report
19 on the activities of the Center.

20 (h) OPEN SOURCE SOFTWARE DEFINED.—In this
21 section, the term “open source software” means software
22 for which the human-readable source code is available for
23 use, study, re-use, modification, enhancement, and redis-
24 tribution by the users of such software.

