

AMENDMENT NO. _____ Calendar No. _____

Purpose: In the nature of a substitute.

IN THE SENATE OF THE UNITED STATES—118th Cong., 2d Sess.

H. R. 8631

To prohibit the Secretary of Homeland Security from procuring certain foreign-made batteries, and for other purposes.

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT IN THE NATURE OF A SUBSTITUTE intended
to be proposed by Mr. PETERS

Viz:

1 Strike all after the enacting clause and insert the fol-
2 lowing:

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Decoupling from For-
5 eign Adversarial Battery Dependence Act”.

6 **SEC. 2. PROHIBITION ON AVAILABILITY OF FUNDS FOR**
7 **PROCUREMENT OF CERTAIN BATTERIES.**

8 (a) IN GENERAL.—Beginning on October 1, 2028,
9 none of the funds authorized to be appropriated or other-
10 wise made available for the Department of Homeland Se-

1 curity may be obligated to procure a battery produced by
2 an entity specified in subsection (b).

3 (b) ENTITIES SPECIFIED.—The entities specified in
4 this subsection are the following:

5 (1) Contemporary Amperex Technology Com-
6 pany, Limited (also known as “CATL”).

7 (2) BYD Company, Limited.

8 (3) Envision Energy, Limited.

9 (4) EVE Energy Company, Limited.

10 (5) Gotion High tech Company, Limited.

11 (6) Hithium Energy Storage Technology com-
12 pany, Limited.

13 (7) Any entity on any list required under
14 clauses (i), (ii), (iv), or (v) of section 2(d)(2)(B) of
15 Public Law 117–78 (commonly referred to as the
16 “Uyghur Forced Labor Prevention Act”).

17 (8) Any entity identified by the Secretary of
18 Defense as a Chinese military company pursuant to
19 section 1260H of the William M. (Mac) Thornberry
20 National Defense Authorization Act for Fiscal Year
21 2021 (10 U.S.C. 113 note).

22 (9) Any entity included in Supplement No. 4 to
23 part 744 of title 15, Code of Federal Regulations, or
24 any successor regulation.

1 (10) Any subsidiary or successor to an entity
2 specified in paragraphs (1) through (9).

3 (c) TREATMENT OF PRODUCTION.—For purposes of
4 this section, a battery shall be treated as produced by an
5 entity specified in subsection (b) if such entity—

6 (1) assembles or manufactures the final product
7 that uses such battery; or

8 (2) creates or otherwise provides a majority of
9 the components used in such battery.

10 (d) WAIVERS.—

11 (1) RELATING TO ASSESSMENT.—The Secretary
12 of Homeland Security may waive the limitation
13 under subsection (a) if the Secretary assesses in the
14 affirmative all of the following:

15 (A) The batteries to be procured do not
16 pose a national security, data, or infrastructure
17 risk to the United States.

18 (B) There is no available alternative to
19 procure batteries that are—

20 (i) of similar or better cost and qual-
21 ity; and

22 (ii) produced by an entity not speci-
23 fied in subsection (b).

24 (2) RELATING TO RESEARCH.—The Secretary
25 of Homeland Security may waive the limitation

1 under subsection (a) if the Secretary determines
2 that the batteries to be procured are for the sole
3 purpose of research, evaluation, training, testing, or
4 analysis.

5 (3) CONGRESSIONAL NOTIFICATION.—Not later
6 than 15 days after granting a waiver under this sub-
7 section, the Secretary of Homeland Security shall
8 submit to the Committee on Homeland Security and
9 Governmental Affairs of the Senate and the Com-
10 mittee on Homeland Security of the House of Rep-
11 resentatives a notification relating thereto.

12 (e) REPORT.—

13 (1) IN GENERAL.—Not later than 180 days
14 after the date of enactment of this Act, the Sec-
15 retary of Homeland Security shall submit to the
16 Committee on Homeland Security and Governmental
17 Affairs of the Senate and the Committee on Home-
18 land Security of the House of Representatives a re-
19 port on the anticipated impacts on mission and costs
20 on the Department of Homeland Security associated
21 with carrying out this section, including with respect
22 to the following components of the Department:

23 (A) U.S. Customs and Border Protection,
24 including the U.S. Border Patrol.

1 (B) U.S. Immigration and Customs En-
2 forcement, including Homeland Security Inves-
3 tigation.

4 (C) The United States Secret Service.

5 (D) The Transportation Security Adminis-
6 tration.

7 (E) The United States Coast Guard.

8 (F) The Federal Protective Service.

9 (G) The Federal Emergency Management
10 Agency.

11 (H) The Federal Law Enforcement Train-
12 ing Centers.

13 (I) The Cybersecurity and Infrastructure
14 Security Agency.

15 (2) CONTENTS OF REPORT.—The report sub-
16 mitted under paragraph (1) shall include—

17 (A) the anticipated impacts on mission
18 readiness, operational effectiveness, and costs
19 for each component of the Department of
20 Homeland Security;

21 (B) the estimated costs associated with
22 transitioning to compliant batteries, including
23 comparisons to prior procurement costs;

1 (C) a description of risk mitigation strate-
2 gies for ensuring operational continuity during
3 the transition; and

4 (D) any identified gaps in domestic battery
5 production capabilities that may affect compli-
6 ance with this Act.

7 (f) **RULE OF CONSTRUCTION.**—Nothing in this sec-
8 tion shall be construed—

9 (1) to require any battery produced by an entity
10 specified in subsection (b) in use or resident in
11 equipment, systems, or services as of the day before
12 the applicable effective date specified in subsection
13 (a) to be removed or replaced; or

14 (2) to prohibit or limit the utilization of such
15 battery throughout the lifecycle of such existing
16 equipment.

17 **SEC. 3. NO NEW FUNDS.**

18 No additional funds are authorized to be appro-
19 priated for the purpose of carrying out this Act.

20 **SEC. 4. SUNSET.**

21 Effective on October 1, 2033, this Act shall have no
22 force or effect.