

116TH CONGRESS  
1ST SESSION

# S. 846

To amend title 49, United States Code, to limit certain rolling stock procurements, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

MARCH 14, 2019

Mr. CORNYN (for himself, Ms. BALDWIN, Mr. CRAPO, Mr. BROWN, Mr. COTTON, Mr. RISCH, Mr. RUBIO, Mr. INHOFE, Mrs. FISCHER, Mr. ROBERTS, Mr. GRASSLEY, Mr. CASSIDY, and Ms. SMITH) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

APRIL 9, 2019

Committee discharged; referred to the Committee on Banking, Housing, and Urban Affairs

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## A BILL

To amend title 49, United States Code, to limit certain rolling stock procurements, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Transit Infrastructure  
5 Vehicle Security Act”.

1 **SEC. 2. LIMITATION ON CERTAIN ROLLING STOCK PRO-**  
2 **CUREMENTS.**

3 Section 5323 of title 49, United States Code, is  
4 amended by adding at the end the following:

5 “(u) **LIMITATION ON CERTAIN ROLLING STOCK PRO-**  
6 **CUREMENTS.**—

7 “(1) **IN GENERAL.**—Except as provided in para-  
8 graph (5), financial assistance made available under  
9 this chapter shall not be used in awarding a contract  
10 or subcontract to an entity on or after the date of  
11 enactment of this subsection for the procurement of  
12 rolling stock for use in public transportation if the  
13 manufacturer of the rolling stock—

14 “(A) is incorporated in or has manufac-  
15 turing facilities in the United States; and

16 “(B) is owned or controlled by, is a sub-  
17 sidiary of, or is otherwise related legally or fi-  
18 nancially to a corporation based in a country  
19 that—

20 “(i) is identified as a nonmarket econ-  
21 omy country (as defined in section 771(18)  
22 of the Tariff Act of 1930 (19 U.S.C.  
23 1677(18))) as of the date of enactment of  
24 this subsection;

25 “(ii) was identified by the United  
26 States Trade Representative in the most

1 recent report required by section 182 of  
2 the Trade Act of 1974 (19 U.S.C. 2242)  
3 as a priority foreign country under sub-  
4 section (a)(2) of that section; and

5 “(iii) is subject to monitoring by the  
6 Trade Representative under section 306 of  
7 the Trade Act of 1974 (19 U.S.C. 2416).

8 “(2) EXCEPTION.—For purposes of paragraph  
9 (1), the term ‘otherwise related legally or financially’  
10 does not include a minority relationship or invest-  
11 ment.

12 “(3) INTERNATIONAL AGREEMENTS.—This sub-  
13 section shall be applied in a manner consistent with  
14 the obligations of the United States under inter-  
15 national agreements.

16 “(4) CERTIFICATION FOR RAIL ROLLING  
17 STOCK.—

18 “(A) IN GENERAL.—Except as provided in  
19 paragraph (5), as a condition of financial as-  
20 sistance made available in a fiscal year under  
21 section 5337, a recipient that operates rail fixed  
22 guideway service shall certify in that fiscal year  
23 that the recipient will not award any contract  
24 or subcontract for the procurement of rail roll-  
25 ing stock for use in public transportation with

1 a rail rolling stock manufacturer described in  
2 paragraph (1).

3 “(B) SEPARATE CERTIFICATION.—The cer-  
4 tification required under this paragraph shall be  
5 in addition to any certification the Secretary es-  
6 tablishes to ensure compliance with the require-  
7 ments of paragraph (1).

8 “(5) EXCEPTION.—This subsection, including  
9 the certification requirement under paragraph (4),  
10 shall not apply to the award of a contract or sub-  
11 contract made by a public transportation agency  
12 with a rail rolling stock manufacturer described in  
13 paragraph (1) if the manufacturer and the public  
14 transportation agency have a contract for rail rolling  
15 stock that was executed before the date of enact-  
16 ment of this subsection.”.

17 **SEC. 3. CYBERSECURITY CERTIFICATION FOR RAIL ROLL-**  
18 **ING STOCK AND OPERATIONS.**

19 Section 5323 of title 49, United States Code, as  
20 amended by section 2, is amended by adding at the end  
21 the following:

22 “(v) CYBERSECURITY CERTIFICATION FOR RAIL  
23 ROLLING STOCK AND OPERATIONS.—

24 “(1) CERTIFICATION.—As a condition of finan-  
25 cial assistance made available under this chapter, a

1 recipient that operates a rail fixed guideway public  
2 transportation system shall certify that the recipient  
3 has established a process to develop, maintain, and  
4 execute a written plan for identifying and reducing  
5 cybersecurity risks.

6 “(2) COMPLIANCE.—For the process required  
7 under paragraph (1), a recipient of assistance under  
8 this chapter shall—

9 “(A) utilize the approach described by the  
10 voluntary standards and best practices devel-  
11 oped under section 2(c)(15) of the National In-  
12 stitute of Standards and Technology Act (15  
13 U.S.C. 272(c)(15)), as applicable;

14 “(B) identify hardware and software that  
15 the recipient determines should undergo third-  
16 party testing and analysis to mitigate cyberse-  
17 curity risks, such as hardware or software for  
18 rail rolling stock under proposed procurements;  
19 and

20 “(C) utilize the approach described in any  
21 voluntary standards and best practices for rail  
22 fixed guideway public transportation systems  
23 developed under the authority of the Secretary  
24 of Homeland Security, as applicable.

1           “(3) LIMITATIONS ON STATUTORY CONSTRUC-  
2           TION.—Nothing in this subsection shall be construed  
3           to interfere with the authority of—

4                   “(A) the Secretary of Homeland Security  
5                   to publish or ensure compliance with require-  
6                   ments or standards concerning cybersecurity for  
7                   rail fixed guideway public transportation sys-  
8                   tems; or

9                   “(B) the Secretary of Transportation  
10                  under section 5329 to address cybersecurity  
11                  issues as those issues relate to the safety of rail  
12                  fixed guideway public transportation systems.”.

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