

**Calendar No. 190**

118TH CONGRESS }  
*1st Session* }

SENATE

{ REPORT  
118-87

AMERICAN SECURITY DRONE ACT OF 2023

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R E P O R T

OF THE

COMMITTEE ON HOMELAND SECURITY AND  
GOVERNMENTAL AFFAIRS  
UNITED STATES SENATE

TO ACCOMPANY

S. 473

TO PROVIDE FOR DRONE SECURITY



AUGUST 22, 2023.—Ordered to be printed  
Filed, under authority of the order of the Senate of July 27, 2023

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Mr. PETERS, from the Committee on Homeland Security and  
Governmental Affairs, submitted the following

R E P O R T

[To accompany S. 473]

[Including cost estimate of the Congressional Budget Office]

The Committee on Homeland Security and Governmental Affairs, to which was referred the bill (S. 473) to provide for drone security, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

CONTENTS

	Page
I. Purpose and Summary .....	1
II. Background and Need for the Legislation .....	2
III. Legislative History .....	4
IV. Section-by-Section Analysis of the Bill, as Reported .....	4
V. Evaluation of Regulatory Impact .....	7
VI. Congressional Budget Office Cost Estimate .....	8
VII. Changes in Existing Law Made by the Bill, as Reported .....	9

I. PURPOSE AND SUMMARY

S. 473, the *American Security Drone Act of 2023*, prohibits federal agencies from procuring and operating unmanned aircraft systems (UAS) and associated elements that are manufactured or assembled by “covered foreign entities” that pose a national security risk. The prohibition will begin two years after the enactment of this bill. S. 473 also prohibits entities that receive federal contracts, grants, and cooperative agreements from operating or purchasing covered UAS. The bill contains exemptions for the Departments of Homeland Security (DHS), Justice (DOJ), Defense (DOD), the Office of the Director of National Intelligence, and other spe-

cific agencies or entities for the purposes of training, testing, or analyzing UAS, counter-UAS, intelligence gathering, electronic warfare, and information warfare operations.

Additionally, S. 473 requires the Director of the Office of Management and Budget (OMB) to establish a government-wide policy for the procurement of UAS to address the risks associated with processing, transmitting, and storing sensitive information collected from UAS. The bill exempts state, local, or territorial law enforcement and emergency service agencies from procurement or operation restrictions for a covered UAS that was purchased with non-federal funding. Further, the bill allows the federal government to continue entering into contracts, grants, and other federal funding instruments with state, local, or territorial law enforcement and emergency service agencies who will purchase or operate a covered UAS under a waiver process. The prohibition on the federal government's procurement of UAS manufactured or assembled by covered foreign entities terminates five years after the bill's enactment.<sup>1</sup>

## II. BACKGROUND AND NEED FOR THE LEGISLATION

The market for UAS, commonly called “drones,” has grown substantially in the last decade. American businesses, governments, and citizens use UAS for a variety of purposes, including: law enforcement, recreation, assessing property value and damage for insurance purposes, and surveilling and fertilizing crops.<sup>2</sup>

Federal agencies use UAS for tasks like land-use research, data collection, search and rescue operations, and monitoring the border.<sup>3</sup> DHS, for example, uses UAS along U.S. borders and over territorial waters for Customs and Border Protection surveillance missions.<sup>4</sup> Information security is imperative when data is collected, stored, and transmitted by UAS for sensitive missions. Reliance on UAS, however, complicates the ability of the federal government to protect the security of this data, in part because, as of March 2020, more than 70% of UAS in the globally were manufactured and assembled by foreign-owned entities with affiliations that have divergent interests than the United States.<sup>5</sup>

Federal agencies have already begun to limit the procurement of foreign-made UAS to protect national security.<sup>6</sup> In 2017, the U.S. Army issued guidance discontinuing the use of UAS sold by DJI, a major foreign manufacturer of UAS, due to security concerns. For example, cybersecurity and data sharing vulnerabilities associated with DJI products could allow sensitive national security information to be shared with nation-state adversaries and other hostile

<sup>1</sup> On May 12, 2021, the Committee approved S. 73, the American Security Drone Act of 2021. That bill is substantially similar to S. 473. Accordingly, this committee report is, in many respects, similar to the committee report for S. 73. See S. Rept. 117–267.

<sup>2</sup> *Drone market outlook in 2023: industry growth trends, market stats, and forecast*, Insider Intelligence (Jan. 7, 2023) ([www.insiderintelligence.com/insights/drone-industry-analysis-market-trends-growth-forecasts/](http://www.insiderintelligence.com/insights/drone-industry-analysis-market-trends-growth-forecasts/)).

<sup>3</sup> *5 Ways Drone Technology Is Used in Federal IT*, FedTech (Mar. 28, 2019) ([fedtechmagazine.com/article/2019/03/5-ways-drone-technology-used-federal-it-perfcon](https://fedtechmagazine.com/article/2019/03/5-ways-drone-technology-used-federal-it-perfcon)).

<sup>4</sup> Congressional Research Service, *Unmanned Aircraft Operations in Domestic Airspace: U.S. Policy Perspectives and the Regulatory Landscape* (R44352) (Jan. 27, 2016).

<sup>5</sup> *The Best Drone Manufacturers in 2021*, Droneii (Nov. 1, 2021) ([www.droneii.com/the-best-drone-manufacturers-in-2021](http://www.droneii.com/the-best-drone-manufacturers-in-2021)).

<sup>6</sup> *Interior Dept. Grounds Its Drones Over Chinese Spying Fears*, New York Times (Jan. 29, 2020) ([www.nytimes.com/2020/01/29/technology/interior-chinese-drones.html](http://www.nytimes.com/2020/01/29/technology/interior-chinese-drones.html)) and *U.S. Army calls for units to discontinue use of DJI equipment*, UAS News (Aug. 4, 2017) ([www.suasnews.com/2017/08/us-army-calls-units-discontinue-use-dji-equipment/](http://www.suasnews.com/2017/08/us-army-calls-units-discontinue-use-dji-equipment/)).

actors.<sup>7</sup> Hostile foreign actors could also use drones to collect intelligence and enable espionage, steal sensitive technology and intellectual property, and conduct cyber-attacks against wireless devices or networks, which could have significant implications for sensitive U.S. facilities and critical infrastructure, the defense industrial base, technology firms, and others.<sup>8</sup>

In May 2018, DOD banned all purchases of commercial-off-the-shelf UAS while the Department researched and developed a strategy to deal with the potential cybersecurity risks of using such equipment.<sup>9</sup> Congress later included a provision in the National Defense Authorization Act for Fiscal Year 2020 prohibiting DOD from using Chinese-made UAS.<sup>10</sup> In May 2019, DHS’s Cybersecurity and Infrastructure Security Agency released a bulletin warning private industry about the “potential risk[s] to . . . organization[al] information” when acquiring and operating Chinese-made UAS and of risks posed by “certain Chinese-made UAS connected devices capable of collecting and transferring potentially revealing data about their operations and the individuals and entities operating them, as China imposes unusually stringent obligations on its citizens to support national intelligence activities.”<sup>11</sup> In January 2021, the General Services Administration largely restricted federal agencies from procuring UAS in response to the cybersecurity threat posed by foreign-made UAS.<sup>12</sup>

S. 473 is intended to respond to this threat by prohibiting federal agencies from procuring UAS manufactured or assembled by designated foreign entities. This would prevent nation-state adversaries and other hostile actors from utilizing these emerging technologies to obtain sensitive national security information. The bill would also support American UAS manufacturers by permitting them time to grow and evolve to changing market needs. Increased domestic UAS manufacturing would provide the United States with increased safety, security, and economic benefits based on a secure domestic supply chain that addresses the needs of UAS users nationwide.

Exemptions on procurement prohibitions are included in the bill for security and mission-critical reasons, including DHS and DOJ exemptions for research and testing of UAS to develop countermeasures against malicious UAS. Additionally, the bill directs OMB to establish a government-wide policy for technology and data management standards to ensure that all procured UAS meet a minimum threshold of security regardless of their country of origin.

<sup>7</sup>*DHS warns of ‘strong concerns’ that Chinese-made drones are stealing data*, CNN (May 20, 2019) ([www.cnn.com/2019/05/20/politics/dhs-chinese-drone-warning/index.html](http://www.cnn.com/2019/05/20/politics/dhs-chinese-drone-warning/index.html)).

<sup>8</sup>Senate Committee on Homeland Security and Governmental Affairs, Testimony Submitted for the Record of Acting Assistant Secretary for Counterterrorism, Threat Prevention, and Law Enforcement Samantha Vinograd, Department of Homeland Security, *Hearing on Protecting the Homeland from Unmanned Aircraft Systems*, 117th Cong. (July 14, 2022) (S. Hrg. 117–XX).

<sup>9</sup>*‘Quads for Squads’ grounded over cyber concerns*, Marine Corps Times (June 15, 2018) ([www.marinecorpstimes.com/news/your-marine-corps/2018/06/15/quads-for-squads-grounded-over-cyber-concerns/](http://www.marinecorpstimes.com/news/your-marine-corps/2018/06/15/quads-for-squads-grounded-over-cyber-concerns/)).

<sup>10</sup>National Defense Authorization Act for Fiscal Year 2020, Pub. L. No. 116–92, Sec. 848.

<sup>11</sup>*DHS warns of ‘strong concerns’ that Chinese-made drones are stealing data*, CNN (May 20, 2019) ([www.cnn.com/2019/05/20/politics/dhs-chinese-drone-warning/index.html](http://www.cnn.com/2019/05/20/politics/dhs-chinese-drone-warning/index.html)).

<sup>12</sup>*U.S. Government to Stop Buying Chinese-made Drones*, VoA News (Feb. 16, 2021) ([www.voanews.com/a/east-asia-pacific\\_voa-news-china\\_us-government-stop-buying-chinese-made-drones/6202125.html](http://www.voanews.com/a/east-asia-pacific_voa-news-china_us-government-stop-buying-chinese-made-drones/6202125.html)).

### III. LEGISLATIVE HISTORY

Senator Rick Scott (R–FL) introduced S. 473, the American Security Drone Act of 2023, on February 16, 2023, with original cosponsors Senator Mark Warner (D–VA), Senator Marco Rubio (R–FL), Senator Richard Blumenthal (D–CT), Senator Marsha Blackburn (R–TN), and Senator Christopher Murphy (D–CT). The bill was referred to the Committee on Homeland Security and Governmental Affairs. Senator Josh Hawley (R–MO) and Senator Mitt Romney (R–UT) joined as additional cosponsors on March 1, 2023 and April 27, 2023, respectively.

The Committee considered S. 473 at a business meeting on May 17, 2023. At the business meeting, the bill was ordered reported favorably by roll call vote of 9 yeas to 1 nay, with Senators Peters, Hassan, Sinema, Rosen, Padilla, Ossoff, Blumenthal, Lankford, and Romney voting in the affirmative, and Senator Paul voting in the negative. Senators Carper, Johnson, Scott, Hawley, and Marshall voted yea by proxy, for the record only.

### V. SECTION BY SECTION ANALYSIS OF THE BILL, AS REPORTED

#### *Section 1. Short title*

This section establishes the short title of the bill as the “American Security Drone Act of 2023.”

#### *Section 2. Definitions*

This section defines “covered foreign entity,” “covered unmanned aircraft system,” “intelligence,” and “intelligence community.”

#### *Section 3. Prohibition on procurement of covered unmanned aircraft systems from covered foreign entities*

Subsection (a) establishes that the head of an executive agency may not procure any covered unmanned aircraft system that is manufactured or assembled by a covered foreign entity.

Subsection (b) exempts the Secretary of Homeland Security, the Secretary of Defense, the Director of National Intelligence, and the Attorney General from the procurement prohibition in subsection (3)(a) for specified activities if the procurement of foreign UAS is in the national interest of the United States or maintenance of public safety.

Subsection (c) exempts the Secretary of Transportation from the procurement prohibition in subsection (3)(a) if the operation or procurement is deemed to support the safe, secure, or efficient operation of the National Airspace System (NAS).

Subsection (d) exempts the National Transportation Safety Board (NTSB) from the procurement prohibition in subsection (3)(a) for the purpose of conducting safety investigations.

Subsection (e) exempts the National Oceanic and Atmospheric Administration (NOAA) from the procurement prohibition in subsection (3)(a) for the purpose of meeting NOAA’s science or management objectives or operational mission.

Subsection (f) authorizes the head of an executive agency to waive the procurement prohibition in subsection (3)(a) on a case-by-case basis with notification to Congress and the approval of the Director of OMB after consultation with the Federal Acquisition Security Council (FASC).

*Section 4. Prohibition on operation of covered unmanned aircraft systems from covered foreign entities*

Subsection (a) prohibits any federal department or agency from operating a covered unmanned aircraft system manufactured or assembled by a covered foreign entity. This section also applies to contracted services. The prohibition takes effect two years after enactment.

Subsection (b) exempts the Secretary of Homeland Security, the Secretary of Defense, the Director of National Intelligence, and the Attorney General from the operation prohibition in subsection (4)(a) for specified activities if the procurement of foreign UAS is in the national interest of the United States.

Subsection (c) exempts the Secretary of Transportation from the operation prohibition in subsection (4)(a) if the operation is deemed to support the safe, secure, or efficient operation of the NAS or maintenance of public safety.

Subsection (d) exempts the NTSB from the operation prohibition in subsection (4)(a) for the purpose of conducting safety investigations.

Subsection (e) exempts NOAA from the operation prohibition in subsection (4)(a) for the purpose of meeting NOAA's science or management objectives or operational mission.

Subsection (f) authorizes the head of an executive agency to waive the operation prohibition in subsection (4)(a) on a case-by-case basis with notification to Congress and the approval of the Director of OMB after consultation with the FASC.

Subsection (g) requires the Secretary of Homeland Security to prescribe regulations or guidance to implement this section not later than 180 days after enactment.

*Section 5. Prohibition on use of federal funds for procurement and operation of covered unmanned aircraft systems from covered foreign entities*

Subsection (a) bars the use of federal funds awarded through contracts, grants, or cooperative agreements to purchase or operate covered unmanned aircraft systems manufactured by covered foreign entities. This prohibition takes effect two years after enactment.

Subsection (b) exempts the Secretary of Homeland Security, the Secretary of Defense, the Director of National Intelligence, and the Attorney General from the restriction in subsection (5)(a) for specified activities if the procurement of foreign UAS is in the national interest of the United States.

Subsection (c) exempts the Secretary of Transportation from the restriction in subsection (5)(a) if the operation is deemed to support the safe, secure, or efficient operation of the NAS or maintenance of public safety.

Subsection (d) exempts NOAA from the restriction in subsection (5)(a) for the purpose of meeting NOAA's science or management objectives or operational mission.

Subsection (e) authorizes the head of an executive agency to waive the restriction in subsection (5)(a) on a case-by-case basis with notification to Congress and the approval of the Director of OMB after consultation with the FASC.

Subsection (f) requires the Federal Acquisition Regulatory Council to prescribe regulations or guidance to implement this section not later than 180 days after the date of enactment.

*Section 6. Prohibition on use of government-issued purchase cards to purchase covered unmanned aircraft systems from covered foreign entities*

This section prohibits the use of government-issued purchase cards to procure any covered unmanned aircraft system from a covered foreign entity.

*Section 7. Management of existing inventories of covered unmanned aircraft systems from covered foreign entities*

Subsection (a) requires all executive agencies to inventory existing covered UAS manufactured or assembled by a covered foreign entity within one year of enactment.

Subsection (b) authorizes tracking under subsection (7)(a) to be conducted at a classified level, as determined by the Secretary of Homeland Security.

Subsection (c) authorizes DOD, DHS, DOJ, Department of Transportation (DOT), and NOAA to exclude from the full inventory process those UAS that are deemed expendable due to mission risk, or that are one-time-use UAS.

*Section 8. Comptroller General Report*

This section requires the Comptroller General of the United States to submit to Congress a report on the amount of commercial off-the-shelf UAS and covered UAS procured by federal departments and agencies from foreign covered entities not later than 275 days after the date of enactment.

*Section 9. Government-wide policy for procurement of unmanned aircraft systems*

Subsection (a) requires the Director of OMB to establish a government-wide policy for the procurement of UAS for non-DOD and non-intelligence operations and those UAS procured through grants and cooperative agreements entered into with non-federal entities not later than 180 days after the date of enactment.

Subsection (b) requires the policy developed under subsection (9)(a) to include certain specifications regarding the risks associated with processing, storing, and transmitting federal information in UAS.

Subsection (c) requires the policy developed under subsection (9)(a) to reflect an appropriate, risk-based approach to UAS information security.

Subsection (d) requires federal revision of acquisition regulations not later than 180 days after the date on which the policy under subsection (9)(a) is issued in order to implement that policy.

Subsection (e) instructs the Director of OMB, in developing the policy under subsection (9)(a), to incorporate policies to implement the exemptions contained in this bill and incorporate an exemption to the policy if a department or agency head determines that no product that complies with the information security requirements under subsection (9)(b) is capable of fulfilling mission critical performance requirements.



Section 10. State, local, and territorial law enforcement and emergency service exemption

Subsection (a) states that nothing in this bill will prevent a state, local, or territorial law enforcement or emergency service agency from procuring or operating a covered UAS purchased with non-federal dollars.

Subsection (b) allows the federal government to continue entering into contracts, grants, and cooperative agreements or other federal funding instruments with state, local, or territorial law enforcement or emergency service agencies under which a covered UAS will be purchased or operated if the agency has received approval or waiver to purchase or operate a covered UAS pursuant to section 5 of the bill.

*Section 11. Study*

Subsection (a) requires the Under Secretary of Defense for Acquisition and Sustainment to provide congressional committees a report on the supply chain for covered UAS, including a discussion of current and projected future demand for covered UAS, within one year of enactment.

*Section 12. Exceptions*

Subsection (a) exempts appropriate federal agencies, in consultation with the Secretary of Homeland Security, from the procurement and operation restrictions under sections 3, 4, and 5 if the procurement or operation is necessary to support the full range of wildfire management operations or search and rescue operations.

Subsection (b) exempts elements of the intelligence community, in consultation with the Director of National Intelligence, from the procurement and operation restrictions under sections 3, 4, and 5 if the procurement or operation is necessary to support intelligence activities.

Subsection (c) exempts tribal law enforcement or tribal emergency service agencies, in consultation with the Secretary of Homeland Security, from the procurement and operation restrictions under sections 3, 4, and 5 if the procurement or operation is necessary to support the full range of law enforcement operations or search and rescue operations on Indian lands.

*Section 13. Sunset*

This section holds that Sections 3, 4, and 5 shall cease to have effect five years after enactment.

V. EVALUATION OF REGULATORY IMPACT

Pursuant to the requirements of paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee has considered the regulatory impact of this bill and determined that the bill will have no regulatory impact within the meaning of the rules. The Committee agrees with the Congressional Budget Office's statement that the bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

## VI. CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

<b>S. 473, American Security Drone Act of 2023</b>			
As ordered reported by the Senate Committee on Homeland Security and Governmental Affairs on May 17, 2023			
By Fiscal Year, Millions of Dollars	2023	2023-2028	2023-2033
Direct Spending (Outlays)	0	*	*
Revenues	0	0	0
Increase or Decrease (-) in the Deficit	0	*	*
Spending Subject to Appropriation (Outlays)	0	1	not estimated
Increases <i>net direct spending</i> in any of the four consecutive 10-year periods beginning in 2034?	No	Statutory pay-as-you-go procedures apply? Yes	
<b>Mandate Effects</b>			
Increases <i>on-budget deficits</i> in any of the four consecutive 10-year periods beginning in 2034?	No	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	No
* = between zero and \$500,000.			

S. 473 would prohibit most federal agencies and contractors from procuring or operating unmanned aircraft systems (UAS) manufactured or assembled by foreign entities that pose national security risks. Several agencies, including the Departments of Defense, Homeland Security, and Justice, would be exempt from the bill's prohibitions under conditions specified in the bill. Agencies could receive a waiver, on a case-by-case basis, after receiving approval from the Office of Management and Budget (OMB) and notifying the Congress. The new prohibitions would sunset five years after enactment.

S. 473 would require OMB, in coordination with several agencies, to establish a government-wide policy for procuring UAS for non-defense and intelligence-related operations. Any federal agency or department not otherwise subject to the Federal Acquisition Regulation would be required to follow the policy. The bill also would require all executive agencies to inventory their existing UAS and impose various reporting requirements.

Based on the costs of similar requirements, CBO estimates that the affected agencies would incur an additional \$1 million in administrative and personnel costs to comply with the bill's requirements. Any spending would be subject to the availability of appropriated funds.

Enacting S. 473 could affect direct spending by agencies that are allowed to use fees, receipts from the sale of goods, and other collections to cover operating costs. CBO estimates that any net changes in direct spending would be less than \$500,000 over the 2024–2033 period.

The CBO staff contact for this estimate is Jeremy Crimm. The estimate was reviewed by H. Samuel Papenfuss, Deputy Director of Budget Analysis.

PHILLIP L. SWAGEL,  
Director, Congressional Budget Office.

VII. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

This legislation would make no change in existing law, within the meaning of clauses (a) and (b) of subparagraph 12 of rule XXVI of the Standing Rules of the Senate, because this legislation would not repeal or amend any provision of current law.

