

115TH CONGRESS
1ST SESSION

S. 79

To provide for the establishment of a pilot program to identify security vulnerabilities of certain entities in the energy sector.

IN THE SENATE OF THE UNITED STATES

JANUARY 10, 2017

Mr. KING (for himself, Mr. RISCH, Mr. HEINRICH, Ms. COLLINS, and Mr. CRAPO) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To provide for the establishment of a pilot program to identify security vulnerabilities of certain entities in the energy sector.

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 “Securing Energy Infra-
5 structure Act”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

8 (1) COVERED ENTITY.—The term “covered en-
9 tity” means an entity identified pursuant to section

1 9(a) of Executive Order 13636 of February 12,
2 2013 (78 Fed. Reg. 11742) relating to identification
3 of critical infrastructure where a cybersecurity inci-
4 dent could reasonably result in catastrophic regional
5 or national effects on public health or safety, eco-
6 nomic security, or national security.

7 (2) EXPLOIT.—The term “exploit” means a
8 software tool designed to take advantage of a secu-
9 rity vulnerability.

10 (3) INDUSTRIAL CONTROL SYSTEM.—

11 (A) IN GENERAL.—The term “industrial
12 control system” means an operational tech-
13 nology used to measure, control, or manage in-
14 dustrial functions.

15 (B) INCLUSIONS.—The term “industrial
16 control system” includes supervisory control
17 and data acquisition systems, distributed con-
18 trol systems, and programmable logic or embed-
19 ded controllers.

20 (4) NATIONAL LABORATORY.—The term “Na-
21 tional Laboratory” has the meaning given the term
22 in section 2 of the Energy Policy Act of 2005 (42
23 U.S.C. 15801).

24 (5) PROGRAM.—The term “Program” means
25 the pilot program established under section 3.

1 (6) SECRETARY.—The term “Secretary” means
2 the Secretary of Energy.

3 (7) SECURITY VULNERABILITY.—The term “se-
4 curity vulnerability” means any attribute of hard-
5 ware, software, process, or procedure that could en-
6 able or facilitate the defeat of a security control.

7 **SEC. 3. PILOT PROGRAM FOR SECURING ENERGY INFRA-**
8 **STRUCTURE.**

9 Not later than 180 days after the date of enactment
10 of this Act, the Secretary shall establish a 2-year control
11 systems implementation pilot program within the National
12 Laboratories for the purposes of—

13 (1) partnering with covered entities in the en-
14 ergy sector (including critical component manufac-
15 turers in the supply chain) that voluntarily partici-
16 pate in the Program to identify new classes of secu-
17 rity vulnerabilities of the covered entities; and

18 (2) researching, developing, testing, and imple-
19 menting technology platforms and standards, in
20 partnership with covered entities, to isolate and de-
21 fend industrial control systems of covered entities
22 from security vulnerabilities and exploits in the most
23 critical systems of the covered entities, including—

24 (A) analog and non-digital control systems;

25 (B) purpose-built control systems; and

1 (C) physical controls.

2 **SEC. 4. WORKING GROUP.**

3 (a) ESTABLISHMENT.—The Secretary shall establish
4 a working group—

5 (1) to evaluate the technology platforms and
6 standards used in the Program under section 3(2);
7 and

8 (2) to develop a national cyber-informed engi-
9 neering strategy to isolate and defend covered enti-
10 ties from security vulnerabilities and exploits in the
11 most critical systems of the covered entities.

12 (b) MEMBERSHIP.—The working group established
13 under subsection (a) shall be composed of not fewer than
14 10 members, to be appointed by the Secretary, at least
15 1 member of which shall represent each of the following:

16 (1) The Department of Energy.

17 (2) The energy industry, including electric utili-
18 ties and manufacturers recommended by the Energy
19 Sector coordinating councils.

20 (3)(A) The Department of Homeland Security;

21 or

22 (B) the Industrial Control Systems Cyber
23 Emergency Response Team.

24 (4) The North American Electric Reliability
25 Corporation.

1 (5) The Nuclear Regulatory Commission.

2 (6)(A) The Office of the Director of National
3 Intelligence; or

4 (B) the intelligence community (as defined in
5 section 3 of the National Security Act of 1947 (50
6 U.S.C. 3003)).

7 (7)(A) The Department of Defense; or

8 (B) the Assistant Secretary of Defense for
9 Homeland Security and America's Security Affairs.

10 (8) A State or regional energy agency.

11 (9) A national research body or academic insti-
12 tution.

13 (10) The National Laboratories.

14 **SEC. 5. REPORT.**

15 Not later than 2 years after the date on which funds
16 are first disbursed under the Program, the Secretary shall
17 submit to the appropriate committees of Congress a final
18 report that—

19 (1) describes the results of the Program;

20 (2) includes an analysis of the feasibility of
21 each method studied under the Program; and

22 (3) describes the results of the evaluations con-
23 ducted by the working group established under sec-
24 tion 4(a).

1 **SEC. 6. NO NEW REGULATORY AUTHORITY.**

2 Nothing in this Act authorizes the Secretary or the
3 head of any other Federal agency to issue new regulations.

4 **SEC. 7. EXEMPTION FROM DISCLOSURE.**

5 Information shared by or with the Federal Govern-
6 ment or a State, tribal, or local government under this
7 Act shall be—

8 (1) deemed to be voluntarily shared informa-
9 tion; and

10 (2) exempt from disclosure under any provision
11 of Federal, State, tribal, or local freedom of infor-
12 mation law, open government law, open meetings
13 law, open records law, sunshine law, or similar law
14 requiring the disclosure of information or records.

15 **SEC. 8. PROTECTION FROM LIABILITY.**

16 (a) IN GENERAL.—A cause of action against a cov-
17 ered entity for engaging in the voluntary activities author-
18 ized under section 3—

19 (1) shall not lie or be maintained in any court;
20 and

21 (2) shall be promptly dismissed by the applica-
22 ble court.

23 (b) VOLUNTARY ACTIVITIES.—Nothing in this Act
24 subjects any covered entity to liability for not engaging
25 in the voluntary activities authorized under section 3.

1 **SEC. 9. AUTHORIZATION OF APPROPRIATIONS.**

2 (a) PILOT PROGRAM.—There is authorized to be ap-
3 propriated \$10,000,000 to carry out section 3.

4 (b) WORKING GROUP AND REPORT.—There is au-
5 thorized to be appropriated \$1,500,000 to carry out sec-
6 tions 4 and 5.

7 (c) AVAILABILITY.—Amounts made available under
8 subsections (a) and (b) shall remain available until ex-
9 pended.

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