

Review of Bill S.686 - Restrict Act (aka Ban TikTok)

I don't often dabble in politics, however, I personally found the language of Bill S.686 disturbing enough that I spent my Sunday afternoon writing up my comments.



LIL_Science
Mar 26

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Bill S.686 was introduced March 7th, 2023 by Senator Mark R. Warner, Democrat VA. Contact Information for Mark R. Warner and others can be found at the end of the document.

Bill S.686 text can be found here: [Bill S.686 - RESTRICT Act](#)

INTRODUCTION

This document provides my personal summary of the impact of Bill S.686 and how to contact all involved political representatives **at the end of the document**. These opinions are strictly my own, I strongly encourage others to read [Bill S.686 - RESTRICT Act](#).

SUMMARY

Concerning language and powers bestowed by Bill S.686 upon the United States Government at the expense of the ability of American Technology and Business to Compete on the World Stage, First Amendment Rights, and the Freedom of Information Act. In summary this is a short-sighted, insular, and widely interpretable bill that provides the power to limit United States small business activities and technology development.

As all business activities in the modern age are subject to the usage and or development of computer software, biotechnology, etc. Bill S.686 provides open access to the US Government regarding all trade secrets and proprietary information in both Foreign and American based businesses to be made public at the discretion of the government.

Bill S.686 enables violation of the First Amendment while destroying the powers of the Freedom of Information Act. In addition, the language of Bill S.686 enables direct interference with all communications and small business development by appointed officials and forces American businesses to operate in an environment of direct threat to their internally developed Intellectual Property.

In sum, Bill S.686 will discourage American Business activities, reduce the ability of American businesses to be competitive, endanger private information, and provide a conduit by which the Government may involve itself in and interrupt private business technology development both domestic and foreign. These powers will discourage talent and technology development within the United States as well as discourage businesses based in any other country from providing Americans with access to or use of their technologies in software, communications, biotechnology, and sciences in general.

SPECIFIC LANGUAGE OF CONCERN

An entity that may be targeted by this Bill includes BOTH foreign and domestic to the United States.

Section 2 (6)

ENTITY.—The term “entity” means any of the following, whether established in the United States or outside of the United States:

(A) A firm.

(B) A government, government agency, government department, or government commission.

(C) A labor union.

(D) A fraternal or social organization.

(E) A partnership.

(F) A trust.

(G) A joint venture.

(H) A corporation.

(I) A group, subgroup, or other association or organization whether or not organized for profit.

Bill S.686 will cool foreign investment in US Technology development as investment security and the security of company developed technology will be subject to widely interpretable laws by unelected officials and dependent on political leanings of congress. This allows the US Government to directly interfere with both foreign and domestic business activities at their discretion.

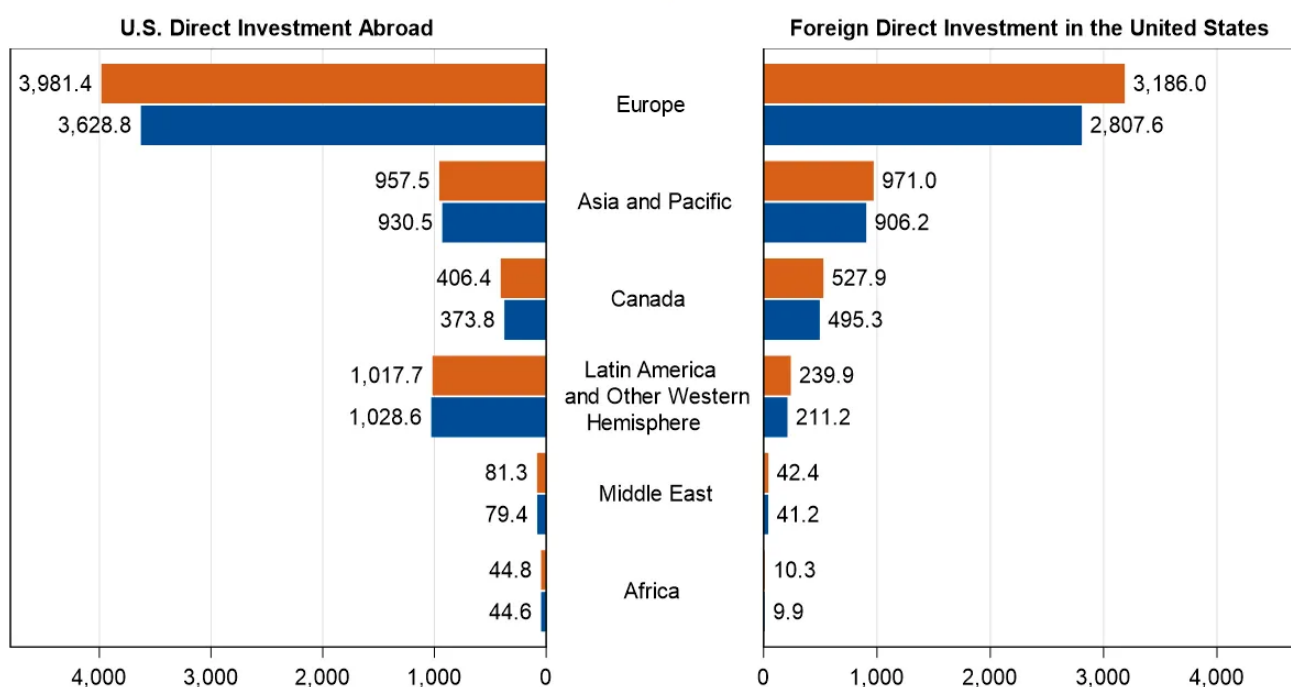
Importantly, businesses in the United States *depend upon and receive sizable annual foreign investment*. For example, this database: “[Chinese Investment in the United States, 2002-2016: Downloadable Dataset](#)” shows US Investments made by entities based in mainland China at a minimum value threshold of \$50 million.

Total foreign direct investment in the United States was \$4.98 Trillion USD by the end of 2021, accounting for 1.92% of US GDP. Data from the World Bank [shows the average contribution of foreign investment to US GDP from 1971 to 2021 was 1.16% ranging between 0.7% and 3.41% annually](#).

Direct Investment Positions, 2020–2021

Billion \$

2021 2020



Source: U.S. Bureau of Economic Analysis

Source: *Direct Investment by Country and Industry* (bea.gov)

Bill S.686 will limit the ability of US companies to sell their technology or their companies in part or full to any entity based outside of the United States. Bill S.686 will discourages business development, investment, and operations from any foreign based company within the United States.

TIMING — The term “covered transaction” includes a current, past, or potential future transaction.”

This enables prosecution and seizure of any core technology including science developed by another country and used by US citizens in the past, present and future.

1. This will discourage and likely prevent US Citizen access from globally used technological advancements. Companies will be reluctant to provide US Citizens access to software, algorithms, biotechnology, etc. as they may have their Intellectual Property seized by the United States Government.

2. This likely violates international patent law and implicit trade secret protections as the technology may be seized by the United States Government **and made public by the United States government at its discretion.**
3. Bill S.686 allows for prosecution of all prior technological advances provided to and used by US citizens.

Businesses and Research areas targeted by this law range from but are not limited to software and hardware to scientific biology research. Science and Technology development areas explicitly outlined in the bill can be found here: [Section 5](#).

Censorship Power Conferred to the US Government

Any user driven activity on a given technology platform, regardless of the business's intentions, makes the business liable to disruption of both foreign and domestic business operations and seizure by the United States. This includes but is not limited to speech of the users as determined by "the Secretary" and agreed upon by Congress which erodes the rights of American people to voice their opinions on social media and forces technology companies to police speech on all applications.

"In General.—The Secretary, in consultation with the relevant executive department and agency heads, is authorized to and *shall take action to identify, deter, disrupt, prevent, prohibit, investigate, or otherwise mitigate, including by negotiating, entering into, or imposing, and enforcing any mitigation measure to address any risk arising from any covered transaction by any person,* or with respect to any property, subject to the jurisdiction of the United States that the Secretary determines—"

Lack of Accountability for Decisions Under Bill S.686

Exercise of this Bill and the extent of who and which entities may be prosecuted is given to "the Secretary" an appointed official not subject to direct oversight or election by the American People.

Per section 7 "The Secretary" has unilateral power to designate any foreign government or regime as a foreign adversary. Although this designation requires

congressional approval, the information by which this determination is made is shielded from the public and thus no accountability for elected officials is possible under Bill S.686.

No Right Of Access

(1) IN GENERAL.—No provision of this Act shall be construed to create a right to obtain access to information in the possession of the Federal Government that was considered in making a determination under this Act that a transaction is a covered transaction or interest or to prohibit, mitigate, or take action against a covered transaction or interest, including any classified national security information or sensitive but unclassified information.”

(2) INAPPLICABILITY OF FOIA.—Any information submitted to the Federal Government by a party to a covered transaction in accordance with this Act, as well as any information the Federal Government may create relating to review of the covered transaction, is exempt from disclosure under section 552 of title 5, United States Code (commonly referred to as the “Freedom of Information Act”).

No Requirement of Supporting Data to Make A Determination of Risk

Considerations Relating To Undue And Unacceptable Risks.

In determining whether a covered transaction poses an undue or unacceptable risk under section 3(a) or 4(a), the Secretary shall, as the Secretary determines appropriate and in consultation with appropriate agency heads, consider, where available

Threat to United States Economy via Unclear Regulation Approaches to our Largest trading Partner: China

In addition, there are many Chinese-owned businesses in the United States. As of March 2022 there were 261 Chinese companies listed in the US with a combined market value of \$1.3 trillion according to the U.S-China Economic and Security Review Commission.

In addition significant Chinese Ownership exists in the following example companies operating in the United States:

- General Motors (GM)
- AMC (American Multi-Cinema)
- Spotify
- Snapchat
- Hilton Hotels
- General Electric (Appliance Division)
- Smithfield Foods

Blank Check

Per Section 17: “There are authorized to be appropriated such sums as may be necessary to carry out this Act.”

REPRESENTATIVE CONTACT INFORMATION AND ROLE IN S.686

BILL SPONSORS

“Mr. WARNER (for himself, Mr. THUNE, Ms. BALDWIN, Mrs. FISCHER, Mr. MANCHIN, Mr. MORAN, Mr. BENNET, Mr. SULLIVAN, Mrs. GILLIBRAND, Ms. COLLINS, Mr. HEINRICH, Mr. ROMNEY, and Mrs. CAPITO) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation”

Congressional Representative: Mark Warner (D) Virginia: Introduced S. 686

Contact Page: [Contact Senator Warner](#)

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Rubin_allergy Writes Rubin_allergy's Substack Mar 27

This bill is rather concerning. Thank you for breaking this down! I love your writing style 🥰

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Adriane Reese Mar 26

I absolutely agree!

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