



October 31, 2023

TO: Subcommittee on Innovation, Data, and Commerce Members and Staff
FROM: Committee on Energy and Commerce, Majority Staff
RE: Subcommittee Markup of 16 Bills

I. INTRODUCTION

The Subcommittee on Innovation, Data, and Commerce will meet in open markup session on Thursday, November 2, 2023, at 10:00 a.m. (ET) in 2123 Rayburn House Office Building to consider the following legislation:

- **H.R. ___, To establish a supply chain resiliency and crisis response program in the Department of Commerce, and for other purposes (Rep. Bucshon)**
- **H.R. 5390, the Critical Infrastructure Manufacturing Feasibility Act (Reps. Miller-Meeks, Bucshon, Johnson, Kuster, Schrier, and Spanberger)**
- **H.R. 5398, the Advancing Tech Startups Act (Reps. Johnson and Phillips)**
- **H.R. 5146, the Advancing Gig Economy Act (Reps. Joyce and Pence)**
- **H.R. 3950, the Transparency In Charges for Key Events Ticketing (TICKET) Act (Reps. Bilirakis and Schakowsky)**
- **H.R. ___, the Speculative Ticketing Ban Discussion Draft**
- **H.R. ___, the No Hidden Fees on Extra Expenses for Stays Act (Rep. Kim)**
- **H.R. 6125, the Online Dating Safety Act of 2023 (Reps. Valadao and Pettersen)**
- **H.R. 5202, the Virginia Graeme Baker Pool and Spa Safety Reauthorization Act (Reps. Wasserman Schultz, Burgess, Carter, Allred, Castor, Williams, Garcia, Flood, Ross, Bacon, and Gottheimer)**
- **H.R. 2964, the Wastewater Infrastructure Pollution Prevention and Environmental Safety (WIPPEs) Act (Reps. McClain and Peltola)**
- **H.R. 5556, the Reinforcing American-Made Products Act (Rep. Curtis)**
- **H.R. 1797, the Setting Consumer Standards for Lithium-Ion Batteries Act (Reps. Torres, Garbarino, Clarke, Ryan, Bowman, D'Esposito, Espaillat, and Goldman)**
- **H.R. ___, the Awning Safety Act of 2023 (Reps. Balderson and Castor)**
- **H.R. 4310, the Youth Poisoning Protection Act (Reps. Trahan, Carey, Porter, and Stewart)**
- **H.R. 4814, the Consumer Safety Technology Act (Reps. Soto, Burgess, Trahan, and Guthrie)**

- **H.R. 906, the Right to Equitable and Professional Auto Industry Repair (REPAIR) Act (Reps. Dunn, Boyle, Davidson, and Perez)**

In keeping with Chair Rodgers' announced policy, amendments submitted at least two hours in advance will be granted priority consideration in the markup. Amendments should be submitted in PDF format by email to EandCdocs@mail.house.gov. Any information with respect to an amendment's parliamentary standing (e.g., its germaneness) should be submitted at this time.

II. EXPLANATION OF LEGISLATION

H.R. ____, To establish a supply chain resiliency and crisis response program in the Department of Commerce, and for other purposes

This bill would establish a supply chain resiliency program within the Department of Commerce (DOC) (1) to promote U.S. leadership in critical industries and emerging technologies; (2) to encourage private-public partnerships (3) to promote resilient supply chains and respond to critical industry and emerging technology supply chains shocks; and (4) to encourage the development and competitiveness of U.S. productive capacities and manufacturing in the U.S.

The bill would also establish the "National Blockchain Promotion and Deployment Program" at the DOC. The bill would (1) designate the Secretary of Commerce as the principal advisor to the President of the U.S. for policy pertaining to blockchain and other distributed ledger technologies; and (2) authorize the Secretary to promote and assist the deployment, use, application, and competitiveness of blockchain and other distributed ledger technologies.

H.R. 5390, the Critical Infrastructure Manufacturing Feasibility Act

This bill would require the DOC to study and report on products that are in high demand across the critical infrastructure sectors. Critical infrastructure sectors are those whose assets, systems, and networks are vital to national security, the economy, public health or safety, or any combination of those matters.

The study must (1) identify the products in high demand across those sectors that are being imported due to manufacturing, material, or supply chain constraints; and (2) analyze the costs, benefits, and feasibility of manufacturing those products in the United States.

H.R. 5398, the Advancing Tech Startups Act

This bill would require the DOC to study and report on the impact of technology startup companies on the U.S. economy.

The study must involve, among other things, (1) describing the activities of identified locations that are dedicated to the creation, development, and growth of technology startup companies; (2) establishing a list of federal agencies asserting jurisdiction over entities and industry sectors dedicated to technology startup companies; and (3) assessing risks and trends in relevant marketplaces and supply chains that impact technology startup companies in the United States.

DOC would have to report to Congress the results of such study and any recommendations to promote the creation, development, and growth of technology startup companies.

H.R. 5146, the Advancing Gig Economy Act

This bill would require the DOC to study and report on the impact of the gig economy on U.S. businesses conducting interstate commerce.

The study must involve, among other things, (1) outreach to participating entities to establish a list of industry sectors that take part in the gig economy, (2) surveying federal activity on the gig economy to develop a list of agencies asserting jurisdiction over entities in and sectors of the gig economy, and (3) surveying state laws regulating the gig economy to determine their impact on both the gig economy and the U.S. economy.

DOC would have to report to Congress the results of such study and any recommendations to promote the growth of the gig economy.

H.R. 3950, the Transparency In Charges for Key Events Ticketing or (TICKET) Act

This bill would require sellers of event tickets to disclose comprehensive information to consumers about ticket prices and related fees. Ticket sellers in the primary and secondary marketplace would be required to display the total ticket price, as well as an itemized list including all fees up front to the consumer at the beginning of a transaction prior to ticket selection. Disclosure of the full ticket price would also be required in any advertisement, marketing activity, or price list.

The bill would also require ticket sellers to disclose to consumers in a clear and conspicuous manner whether the ticket issuer has actual or constructive possession of the event ticket at the time of sale. Violations of these ticket transparency requirements would be enforced as an “unfair or deceptive act or practice” by the FTC.

H.R. ____, the Speculative Ticketing Ban Discussion Draft

This bill would ban the sale of speculative tickets, which are tickets where an issuer or secondary market ticket issuer does not have actual or constructive possession of an event ticket.

This would not prohibit any services associated for procuring the ticket once the tickets go on sale. The bill would authorize the FTC to enforce its requirements under 15 U.S.C. 57a(a)(1)(B).

H.R. ____, the No Hidden Fees on Extra Expenses for Stays Act

This bill would prohibit covered providers from advertising prices for hotel rooms and other places of short-term lodging that do not include each mandatory fee. A violation of provisions in this act would be treated as a violation of a regulation under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)). In addition to enforcement by the FTC, a state attorney general, official, or agency of a state could bring a civil action on behalf of the residents of the State if they have reason to believe that an interest of the residents of the State has been or is being threatened or adversely affected by a practice that violates provisions of this Act.

H.R. 6125, the Online Dating Safety Act of 2023

This bill would require online dating service providers to issue a fraud ban notification to members of the online dating service if the member has received and responded to a message from a banned member of the online dating service. The fraud ban notification requirements would include but are not limited to the following: username or other profile identifier of the banned member; a statement that a member should not send money or personal financial information to another member; and an online link to information regarding ways to avoid online fraud or being defrauded by a member of an online dating service. A violation of the provisions of this Act would be treated as a violation of a regulation under section 6 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)) regarding “unfair or deceptive acts or practices.”

H.R. 5202, the Virginia Graeme Baker Pool and Spa Safety Reauthorization Act

The Virginia Graeme Baker Pool and Spa Safety (VGB) Act, first authorized in 2008, would extend the Consumer Product Safety Commission’s (CPSC’s) authority to improve the safety of all pools and spas by increasing the layers of protection and promoting uninterrupted supervision to prevent child drowning and entrapment. The law has three principal elements: (1) requires every public pool in the U.S. to install safe drain covers that prevent suction entrapment; (2) a grant program for states, localities, and Indian Tribes to enforce standards and educate communities about drowning and entrapment dangers; and (3) a national public education campaign, “Pool Safely,” that raises awareness about drowning prevention.

H.R. 2964, the Wastewater Infrastructure Pollution Prevention and Environmental Safety (WIPPES) Act

This bill would require the FTC to issue regulations requiring entities responsible for the labeling or retail packaging of certain premoistened, nonwoven wipes (e.g., baby wipes, cleaning wipes, or personal care wipes) to label such products clearly and conspicuously with the phrase “Do Not Flush” and accompanying symbol as depicted under specified industry guidelines. The FTC would be authorized to enforce this requirement.

H.R. 5556, the Reinforcing American-Made Products Act

This bill would amend Section 320933 of the Violent Crime Control and Law Enforcement Act of 1994 (15 U.S.C. 45a) to specify that the FTC's regulation of the labeling of products as Made in the U.S.A. or Made in America supersedes any conflicting state laws.

H.R. 1797, the Setting Consumer Standards for Lithium-Ion Batteries Act

This bill would require the CPSC to set a mandatory safety standard for lithium-ion batteries in micro mobility devices like e-bikes, and e-scooters. Specifically, this bill would require the CPSC to promulgate a final consumer product safety standard for rechargeable lithium-ion batteries used in micro-mobility devices, including electric bicycles and electric scooters, to protect against the risk of fires caused by such batteries. The bill would also require the CPSC to specify types of rechargeable lithium-ion batteries and types of micro-mobility devices that are within the scope of the consumer product safety standard. This consumer product safety standard must be treated as a consumer product safety rule under section 9 of the Consumer Product Safety Act.

H.R. ____, the Awning Safety Act of 2023

This bill would require the CPSC to promulgate a mandatory standard, under Sections 7 and 9 of the Consumer Product Safety Act (15 U.S.C. 2056, 58), with regard to fixed and freestanding motorized retractable awnings within the jurisdiction of the CPSC, related to the risk of injury or death from the awning unexpectedly opening and striking a person.

H.R. 4310, the Youth Poisoning Protection Act

The bill would ban high-concentration sodium nitrite from commerce by adding such products to the list of banned hazardous products in the Consumer Product Safety Act (15 U.S.C. 2057). It defines “high concentration of sodium nitrite” as a concentration of sodium nitrite greater than 10%; there are no known consumer products that need to contain sodium nitrite above this level. It would not affect sales of high-concentration sodium nitrite to businesses, or to research or medical institutions.

H.R. 4814, the Consumer Safety Technology Act

This bill would require various agencies to explore the use of emerging technologies in the context of consumer products and safety. First, the CPSC would be required to consult with relevant stakeholders, such as data scientists and product manufacturers, and use artificial intelligence in a pilot program for a least one of the following processes: (1) tracking trends in injuries involving consumer products, (2) identifying consumer product hazards, (3) monitoring the sale of recalled consumer products, or (4) identifying consumer products that do not meet specified importation requirements related to product safety.

Additionally, the Department of Commerce would be required to consult with the FTC and other relevant agencies to study potential applications of blockchain technology (i.e., the technology that supports digital currencies such as Bitcoin), including the use of such technology to address fraud and other unfair or deceptive practices. Finally, the FTC would be required to report on its efforts to address unfair or deceptive trade practices related to digital tokens (i.e., transferable units of a digital currency).

H.R. 906, the Right to Equitable and Professional Auto Industry Repair (REPAIR) Act

This bill would require a motor vehicle manufacturer to provide to a vehicle's owner certain direct, real-time, in-vehicle data generated by the operation of the vehicle that is related to diagnostics, repair, service, wear, and calibration or recalibration of parts and systems of the vehicle. Specifically, a vehicle manufacturer would not be able to impair an owner's access to such vehicle-generated data or impair an aftermarket parts manufacturer from producing or offering compatible aftermarket parts. A manufacturer would also need to make available to the vehicle's owner and designees, vehicle-generated data through a standardized access platform. Outside of recall and warranty repairs, a manufacturer may not mandate the use of a particular brand or manufacturer of parts, tools, or equipment.

The National Highway Traffic Safety Administration (NHTSA) would be required to issue standards for access to vehicle data through the standardized access platform. The FTC would be required to establish an advisory committee to (1) provide recommendations on the implementation of this bill, and (2) assess and report on existing and emerging barriers to vehicle repair and vehicle owners' control over their vehicle-generated data. This bill would authorize the FTC to enforce these requirements.

III. STAFF CONTACTS

If you have any questions regarding this markup, please contact Tim Kurth, Teddy Tanzer, Brannon Rains, Michael Cameron, or Jessica Herron at 202-225-3641.