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(Original Signature of Member)

118TH CONGRESS
2D SESSION

H. R. _____

To amend the Export Control Reform Act of 2018 to prevent the People's Republic of China from exploiting items such as black mass and certain other products produced in the United States.

IN THE HOUSE OF REPRESENTATIVES

Mr. WITTMAN introduced the following bill; which was referred to the Committee on _____

A BILL

To amend the Export Control Reform Act of 2018 to prevent the People's Republic of China from exploiting items such as black mass and certain other products produced in the United States.

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

1 **SECTION 1. EXPORT CONTROLS TO PREVENT THE PEO-**
2 **PLE'S REPUBLIC OF CHINA FROM EXPLOIT-**
3 **ING ITEMS SUCH AS BLACK MASS AND CER-**
4 **TAIN OTHER PRODUCTS PRODUCED IN THE**
5 **UNITED STATES.**

6 (a) PURPOSE.—The purpose of this Act is to facili-
7 tate resilient critical mineral supply chains and promote
8 the development of domestic processing, sustainable recy-
9 cling and recovery of critical materials from spent lithium-
10 ion batteries, limit predatory price inflation by the Peo-
11 ple's Republic of China, and encourage a domestic battery
12 recycling and recycled material processing industry.

13 (b) AMENDMENTS.—

14 (1) IN GENERAL.—Part I of the Export Control
15 Reform Act of 2018 (50 U.S.C. 4811 et seq.) is
16 amended by inserting after section 1758 the fol-
17 lowing:

18 **“SEC. 1758A. EXPORT CONTROLS TO PREVENT THE PEO-**
19 **PLE'S REPUBLIC OF CHINA FROM EXPLOIT-**
20 **ING ITEMS SUCH AS BLACK MASS AND CER-**
21 **TAIN OTHER PRODUCTS PRODUCED IN THE**
22 **UNITED STATES.**

23 “(a) IN GENERAL.—Not later than 2 years after the
24 date of the enactment of this section, the Secretary shall
25 require a license for the export, reexport, or in-country

1 transfer of covered items if the end-user is a foreign adver-
2 sary or foreign adversary entity.

3 “(b) LICENSING REQUIREMENTS.—The Secretary
4 shall deny any license application for the export, re-export,
5 or in-country transfer of black mass if the end-user is a
6 foreign adversary or a foreign adversary entity.

7 “(c) DEFINITIONS.—In this section—

8 “(1) the term ‘black mass’—

9 “(A) means intermediate material pro-
10 duced from the mechanical processing of spent
11 lithium-ion batteries, cathode active material,
12 and anode active material that includes a mix-
13 ture of lithium, cobalt, nickel, and manganese,
14 and graphite; and

15 “(B) does not include intact batteries, par-
16 tially disassembled batteries, or any component
17 of the battery that has not been subjected to
18 mechanical processing;

19 “(2) the term ‘covered item’ means—

20 “(A) black mass; and

21 “(B) swarf;

22 “(3) term ‘foreign adversary’ means—

23 “(A) the People’s Republic of China, in-
24 cluding all Special Administrative Regions;

25 “(B) the Republic of Cuba;

1 “(C) the Islamic Republic of Iran;

2 “(D) the Democratic People’s Republic of
3 Korea;

4 “(E) the Russian Federation; and

5 “(F) any country determined by the Sec-
6 retary, in consultation with other relevant Fed-
7 eral officials, to have engaged in a long-term
8 pattern or serious instances of conduct signifi-
9 cantly adverse to the national security of the
10 United States or security and safety of United
11 States persons;

12 “(4) the term ‘foreign adversary entity’
13 means—

14 “(A) a foreign entity subject to the juris-
15 diction of, or organized under the laws of, a for-
16 eign adversary;

17 “(B) a foreign entity that is more than 25
18 percent owned, directed, controlled, financed, or
19 influenced directly or indirectly by the Govern-
20 ment of the People’s Republic of China, the
21 Chinese Communist Party, or the Chinese mili-
22 tary, including any entity for which the Govern-
23 ment of the People’s Republic of China, the
24 Chinese Communist Party, or the Chinese mili-
25 tary has the ability, through ownership of a ma-

1 jority or a dominant minority of the total out-
2 standing voting interest in the entity, board
3 representation, proxy voting, a special share,
4 contractual arrangements, formal or informal
5 arrangements to act in concert, or other means,
6 to determine, direct, or decide for the entity in
7 an important manner; or

8 “(C) a foreign entity owned, directed, or
9 controlled by a foreign entity described in sub-
10 paragraph (A) or (B);

11 “(5) the term ‘permanent magnet’ means Neo-
12 dymium Iron Boron magnets and Samarium Cobalt
13 magnets; and

14 “(6) the term ‘swarf’ means intermediate mate-
15 rial produced from the mechanical processing to
16 shape and produce permanent magnets with a com-
17 position that includes Neodymium Iron Boron, Sa-
18 marium Cobalt, Aluminum Nickel Cobalt, or end-of-
19 life permanent magnet waste materials.”.

20 (2) CLERICAL AMENDMENTS.—The tables of
21 contents in section 2(b) and title XVII of division A
22 of Public Law 115–232 are each amended by insert-
23 ing after the item relating to section 1758 the fol-
24 lowing:

“Sec. 1758A. Export controls to prevent the People’s Republic of China from
exploiting items such as black mass and other products pro-
duced in the United States.”.