

118TH CONGRESS
1ST SESSION

S. _____

To require the Assistant Secretary of Commerce for Communications and Information to establish a working group on cyber insurance, to require dissemination of informative resources for issuers and customers of cyber insurance, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. HICKENLOOPER (for himself and Mrs. CAPITO) introduced the following bill; which was read twice and referred to the Committee on

A BILL

To require the Assistant Secretary of Commerce for Communications and Information to establish a working group on cyber insurance, to require dissemination of informative resources for issuers and customers of cyber insurance, and for other purposes.

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 “Insure Cybersecurity
5 Act of 2023”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

1 (1) ASSISTANT SECRETARY.—The term “Assist-
2 ant Secretary” means the Assistant Secretary of
3 Commerce for Communications and Information.

4 (2) CUSTOMER.—The term “customer” means
5 an individual or organization that purchases cyber
6 insurance from an issuer.

7 (3) CYBER INCIDENT.—The term “cyber inci-
8 dent” has the meaning given the term “incident” in
9 section 3552(b) of title 44, United States Code.

10 (4) CYBER INSURANCE.—Subject to section
11 3(c)(1)(A), the term “cyber insurance” means an in-
12 surance policy that, whether by explicit inclusion or
13 by lack of exclusion, offers coverage for losses, dam-
14 ages, and costs incurred due to cyber incidents.

15 (5) ISSUER.—The term “issuer” means an or-
16 ganization that issues cyber insurance.

17 (6) POLICY.—The term “policy” means a policy
18 for cyber insurance.

19 (7) SMALL BUSINESS.—The term “small busi-
20 ness” has the meaning given the term “small busi-
21 ness concern” in section 3 of the Small Business Act
22 (15 U.S.C. 632).

23 (8) WORKING GROUP.—The term “working
24 group” means the working group established under
25 section 3(a).

1 **SEC. 3. WORKING GROUP ON CYBER INSURANCE.**

2 (a) ESTABLISHMENT.—Not later than 90 days after
3 the date of enactment of this Act, the Assistant Secretary
4 shall establish a working group on cyber insurance.

5 (b) COMPOSITION.—

6 (1) MEMBERSHIP.—The working group shall be
7 composed of not less than 1 member from each of
8 the following:

9 (A) The Cybersecurity and Infrastructure
10 Security Agency.

11 (B) The National Institute of Standards
12 and Technology.

13 (C) The Department of the Treasury.

14 (D) The Department of Justice.

15 (2) CHAIRPERSON.—The Assistant Secretary
16 shall be the chairperson of the working group.

17 (c) ACTIVITIES.—

18 (1) IN GENERAL.—The working group shall
19 carry out the following activities:

20 (A) For the purposes of the activities of
21 the working group, define the term “cyber in-
22 surance” in a manner that is different from the
23 definition of that term under section 2(4), if the
24 working group determines that such a modified
25 definition is necessary.

1 (B) Analyze and explain in a manner most
2 understandable to customers the technical and
3 legal terminology commonly used in policies.

4 (C) Analyze, and develop recommendations
5 regarding, provisions in policies that relate to
6 ransomware and ransom payments made in re-
7 sponse to ransomware.

8 (D) Analyze and explain in a manner most
9 understandable to customers the terminology
10 used in policies to include or exclude coverage
11 for losses due to cyber incidents that are caused
12 by cyberterrorism or acts of war.

13 (E) Develop recommendations for prospec-
14 tive customers on ways to effectively evaluate
15 the types and levels of coverage offered under
16 a policy.

17 (F) Develop recommendations for issuers,
18 agents, and brokers regarding how to provide
19 and communicate policy provisions that are
20 clear and easy to understand for customers.

21 (G) Identify the constraints of issuers in
22 covering higher amounts of losses and new
23 cyber risk areas currently not covered, including
24 reputational damage and intellectual property
25 lost.

1 (H) Gather input from issuers on what
2 measures would improve the ability of those
3 issuers to offer additional coverage under poli-
4 cies, including improvements to their actuarial
5 data, cyber risk data, and information sharing
6 mechanisms and effective measurement of the
7 cybersecurity practices of consumers.

8 (I) Identify the constraints of the market
9 and why more organizations do not use cyber
10 insurance as a risk response mechanism.

11 (J) Develop recommendations for cus-
12 tomers on how best to use cyber insurance as
13 a risk response mechanism for cyber risk and
14 incentives for doing so.

15 (2) CONSULTATION.—In carrying out the activi-
16 ties of the working group under paragraph (1), the
17 working group shall consult with the public in an
18 open and transparent manner, including by con-
19 sulting with the following stakeholders:

20 (A) Issuers.

21 (B) Insurance agents and brokers with ex-
22 perience in the sale and distribution of cyber in-
23 surance.

1 (C) Representatives of business customers
2 from multiple sectors and representatives of
3 small businesses.

4 (D) Academia.

5 (E) State insurance regulators with exper-
6 tise regarding cybersecurity and cyber insur-
7 ance.

8 (F) Other individuals or entities with cy-
9 bersecurity and cyber insurance expertise as the
10 Assistant Secretary considers appropriate.

11 (d) REPORT.—Not later than 1 year after the date
12 on which the working group first convenes, the working
13 group shall submit to Congress a report regarding the ac-
14 tivities of the working group under subsection (c) and any
15 recommendations of the working group.

16 (e) TERMINATION.—The working group shall termi-
17 nate upon submission of the report required under sub-
18 section (d).

19 (f) RULE OF CONSTRUCTION.—Nothing in this sec-
20 tion shall be construed to—

21 (1) require adoption of the recommendations of
22 the working group; or

23 (2) provide any authority to any member of the
24 working group or any other individual to regulate

1 the business of insurance that is not already pro-
2 vided under any other provision of law.

3 **SEC. 4. DISSEMINATION OF INFORMATIVE RESOURCES FOR**
4 **CYBER INSURANCE STAKEHOLDERS.**

5 (a) IN GENERAL.—Not later than 90 days after the
6 date on which the working group submits the report re-
7 quired under section 3(d), the Assistant Secretary shall
8 disseminate and make publicly available informative re-
9 sources for cyber insurance stakeholders.

10 (b) REQUIREMENTS.—The Assistant Secretary shall
11 ensure that the resources disseminated under subsection
12 (a)—

13 (1) incorporate the recommendations included
14 in the report submitted under section 3(d);

15 (2) are generally applicable and usable by a
16 wide range of cyber insurance stakeholders, includ-
17 ing issuers, agents, brokers, and customers; and

18 (3) include case studies and specific examples,
19 where appropriate.

20 (c) PUBLICATION.—The resources disseminated
21 under subsection (a) shall be published on the public
22 website of the National Telecommunications and Informa-
23 tion Administration.

24 (d) OUTREACH.—The Assistant Secretary shall con-
25 duct outreach and coordination activities to promote the

1 availability of the resources disseminated under subsection
2 (a) to relevant industry stakeholders and the general pub-
3 lic.

4 (e) VOLUNTARY USE.—Nothing in this section may
5 be construed to require the use of the resources dissemi-
6 nated under subsection (a).