

(Added Pub. L. 103–160, div. A, title VIII, § 822(a)(1), Nov. 30, 1993, 107 Stat. 1705, § 2540; renumbered § 2539a, Pub. L. 103–337, div. A, title X, § 1070(a)(13)(A), Oct. 5, 1994, 108 Stat. 2856; renumbered § 4884 and amended Pub. L. 116–283, div. A, title XVIII, § 1870(e)(2), Jan. 1, 2021, 134 Stat. 4286.)

Editorial Notes

PRIOR PROVISIONS

Provisions similar to those in this section were contained in sections 4502(d) and 9502(d) of this title, prior to repeal by Pub. L. 103–160, § 822(a)(2).

AMENDMENTS

2021—Pub. L. 116–283, § 1870(e)(2)(B), substituted “sections 4882 and 4883” for “sections 2538 and 2539”.

Pub. L. 116–283, § 1870(e)(2)(A), renumbered section 2539a of this title as this section.

1994—Pub. L. 103–337 renumbered section 2540 of this title as section 2539a.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

SUBCHAPTER V—OTHER MATTERS

Sec. 4891.	Improved national defense control of technology diversions overseas.
4892.	Availability of samples, drawings, information, equipment, materials, and certain services.

§ 4891. Improved national defense control of technology diversions overseas

(a) COLLECTION OF INFORMATION ON FOREIGN-CONTROLLED CONTRACTORS.—The Secretary of Defense and the Secretary of Energy shall each collect and maintain a data base containing a list of, and other pertinent information on, all contractors with the Department of Defense and the Department of Energy, respectively, that are controlled by foreign persons. The data base shall contain information on such contractors for 1988 and thereafter in all cases where they are awarded contracts exceeding \$10,000,000 in any single year by the Department of Defense or the Department of Energy.

(b) TECHNOLOGY RISK ASSESSMENT REQUIREMENT.—(1) If the Secretary of Defense is acting as a designee of the President under section 721(a)¹ of the Defense Production Act of 1950 (50 U.S.C. 4565(a)) and if the Secretary determines that a proposed or pending merger, acquisition, or takeover may involve a firm engaged in the development of a defense critical technology or is otherwise important to the defense industrial and technology base, then the Secretary shall require the appropriate entity or entities from the list set forth in paragraph (2) to conduct an assessment of the risk of diversion of defense critical technology posed by such proposed or pending action.

(2) The entities referred to in paragraph (1) are the following:

- (A) The Defense Intelligence Agency.
- (B) The Army Foreign Technology Science Center.
- (C) The Naval Maritime Intelligence Center.
- (D) The Air Force Foreign Aerospace Science and Technology Center.

(Added Pub. L. 102–484, div. A, title VIII, § 838(a), Oct. 23, 1992, 106 Stat. 2465, § 2537; amended Pub. L. 103–35, title II, § 201(d)(5), (h)(2), May 31, 1993, 107 Stat. 99, 100; Pub. L. 107–314, div. A, title X, § 1041(a)(16), Dec. 2, 2002, 116 Stat. 2645; Pub. L. 114–328, div. A, title X, § 1081(b)(4)(B), Dec. 23, 2016, 130 Stat. 2419; Pub. L. 115–91, div. A, title X, § 1051(a)(19), Dec. 12, 2017, 131 Stat. 1561; renumbered § 4891, Pub. L. 116–283, div. A, title XVIII, § 1870(f)(2), Jan. 1, 2021, 134 Stat. 4287.)

Editorial Notes

REFERENCES IN TEXT

Section 721(a) of the Defense Production Act of 1950, referred to in subsec. (b), is section 721(a) of act Sept. 8, 1950, ch. 932, as added by Pub. L. 100–418, title V, § 5021, Aug. 23, 1988, 102 Stat. 1425, which is classified to section 4565(a) of Title 50, War and National Defense. Section 721(a) of the Act was struck out, and a new section 721(a) was added, by Pub. L. 110–49, § 2, July 26, 2007, 121 Stat. 246. As so added, section 721(a) does not refer to investigations by the President or the President's designee.

AMENDMENTS

2021—Pub. L. 116–283 renumbered section 2537 of this title as this section.

2017—Subsecs. (b), (c). Pub. L. 115–91 redesignated subsec. (c) as (b) and struck out former subsec. (b) which required annual reports to Congress regarding the information collected under subsec. (a).

2016—Subsec. (c). Pub. L. 114–328 substituted “(50 U.S.C. 4565(a))” for “(50 U.S.C. App. 2170(a))”.

2002—Subsec. (a). Pub. L. 107–314 substituted “\$10,000,000” for “\$100,000”.

1993—Subsec. (a). Pub. L. 103–35, § 201(d)(5), substituted “respectively, that” for “respectively, which”.

Subsec. (d). Pub. L. 103–35, § 201(h)(2), struck out subsec. (d) which read as follows: “In this section, the term ‘defense critical technology’ has the meaning provided that term by section 2491(8) of this title.”

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

§ 4892. Availability of samples, drawings, information, equipment, materials, and certain services

(a) AUTHORITY.—The Secretary of Defense and the Secretaries of the military departments, under regulations prescribed by the Secretary of Defense and when determined by the Secretary of Defense or the Secretary concerned to be in the interest of national defense, may each—

(1) sell, rent, lend, or give samples, drawings, and manufacturing or other information (subject to the rights of third parties) to any person or entity;

(2) sell, rent, or lend government equipment or materials to any person or entity—

(A) for use in independent research and development programs, subject to the condi-

¹ See References in Text note below.