

**AMERICAN PUBLIC TRANSPORTATION ASSOCIATION**  
**FACT SHEET**  
**H.R. 3317**  
**“ROLLING STOCK PROTECTION ACT”**  
*June 11, 2023*

Current law includes a provision that prohibits procurement of Chinese rolling stock except in limited circumstances. Our members have expressed both support and opposition to these provisions. Rep. Rick Crawford (R-AR) introduced H.R. 3317, the Rolling Stock Protection Act, which was approved by the House Committee on Transportation and Infrastructure by voice vote on May 23.

The purpose of this updated Fact Sheet is to summarize H.R. 3317. The bill amends current law to remove the life-time exemption from the prohibition on the procurement of rolling stock from certain vehicle manufacturers for parties to executed contracts.

***Limitations on Chinese Rolling Stock Procurements***

Current law (49 U.S.C. § 5323(u)) prohibits federal public transit funding to procure bus and rail rolling stock from an entity that is incorporated in or has manufacturing facilities in the United States and “is owned or controlled by, is a subsidiary of, or is otherwise related legally or financially to a corporation based in” China. The law bill provides a three-part test to determine the application of the provision. Currently, only the People’s Republic of China meets this three-part test.

In addition, § 5323(u)(4)(A) prohibits a grant recipient of 49 U.S.C. § 5337 State of Good Repair funding that operates a rail fixed guideway service from using non-federal funds to procure rail rolling stock from such an entity supported by China. Specifically, § 5323(u)(4)(A) requires grant recipients of § 5337 funds to certify on an annual basis that the recipient will not “award any contract or subcontract for the procurement of rail rolling stock for use in public transportation” with an entity supported by China. The provision applies this requirement to “any contract”, not only contracts funded by federal grants. Failure to comply with the certification requirement will result in the loss of § 5337 funding in that fiscal year.

Section 5323(u)(4)(B) also provides authority to the Secretary of Transportation to require additional certification to ensure compliance.

Currently, the rail rolling stock procurement prohibition provisions do not apply to existing contracts (i.e., those agencies that formed a contract for rail rolling stock with a restricted manufacturer prior to December 20, 2019, § 5323(u)(5)). **H.R. 3317 would eliminate this exception.**

However, H.R. 3317 would not affect the ability of those transit agencies that entered into a base contract prior to December 20, 2021 (i.e., the end of the two-year phase in of these restrictions), to exercise future options under that base contract subject to the limits for multiyear rolling stock

contracts of 49 U.S.C. § 5325(e).<sup>1</sup> See Federal Transit Administration [FAQ on 49 U.S.C. § 5323\(u\)](#).

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<sup>1</sup> Section 5325(e) allows for a recipient procuring rolling stock with Government financial assistance to make a multiyear contract to buy the rolling stock and replacement parts under which the recipient has an option to buy additional rolling stock or replacement parts for: (A) not more than 5 years after the date of the original contract for bus procurements; and (B) not more than 7 years after the date of the original contract for rail procurements, provided that such option does not allow for significant changes or alterations to the rolling stock.