

118TH CONGRESS  
1ST SESSION

# H. R. 4716

To amend the Arms Export Control Act in support of Australia and the AUKUS partnership.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 18, 2023

Mrs. KIM of California (for herself, Mr. McCAUL, and Mr. KEAN of New Jersey) introduced the following bill; which was referred to the Committee on Foreign Affairs, and in addition to the Committee on Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend the Arms Export Control Act in support of Australia and the AUKUS partnership.

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 “Keeping our Allies  
5 Leading in Advancement Act” or the “KOALA Act”.

1 **SEC. 2. EXCEPTIONS FOR AUSTRALIA RELATING TO LI-**  
2 **CENSING OF DEFENSE ARTICLES AND DE-**  
3 **FENSE SERVICES FOR EXPORT UNDER THE**  
4 **ARMS EXPORT CONTROL ACT.**

5 (a) IN GENERAL.—Section 38(j)(1) of the Arms Ex-  
6 port Control Act (22 U.S.C. 2778(j)(1)) is amended—

7 (1) by redesignating subparagraph (C) as sub-  
8 paragraph (D); and

9 (2) by inserting after subparagraph (B) the fol-  
10 lowing:

11 “(C) EXCEPTIONS FOR AUSTRALIA.—

12 “(i) IN GENERAL.—Subject to clause  
13 (iii), the requirement to conclude a bilat-  
14 eral agreement in accordance with sub-  
15 paragraph (A) shall not apply with respect  
16 to an exemption for Australia from the li-  
17 censing requirements of this Act for the  
18 export of defense articles or defense serv-  
19 ices that is issued in furtherance of or in  
20 connection with the multilateral coopera-  
21 tive partnership between Australia, the  
22 United Kingdom, and the United States  
23 announced on September 21, 2021.

24 “(ii) RELATING TO OTHER LICENSING  
25 AND APPROVAL REQUIREMENTS.—Notwith-  
26 standing any other provision of this section

1 (other than clause (iii)), the President  
2 shall exempt from the licensing or other  
3 approval requirements of this section ex-  
4 ports and transfers (including reexports,  
5 retransfers, temporary imports, and  
6 brokering activities) of defense articles or  
7 defense services between the United States,  
8 Australia, and the United Kingdom.

9 “(iii) JOINT RESOLUTION OF DIS-  
10 APPROVAL.—

11 “(I) IN GENERAL.—No exemp-  
12 tion described in clause (i) or (ii) may  
13 be made if Congress enacts a joint  
14 resolution disapproving of the exemp-  
15 tion.

16 “(II) CONSIDERATION IN SEN-  
17 ATE.—Any joint resolution under this  
18 clause shall be considered in the Sen-  
19 ate in accordance with the provision  
20 of section 601(b) of the International  
21 Security Assistance and Arms Export  
22 Control Act of 1976.

23 “(III) CONSIDERATION IN THE  
24 HOUSE OF REPRESENTATIVES.—For  
25 the purpose of expediting the consid-

1           eration and enactment of any joint  
2           resolution under this clause, a motion  
3           to proceed to the consideration of any  
4           such joint resolution after it has been  
5           reported by the appropriate committee  
6           shall be treated as highly privileged in  
7           the House of Representatives.

8           “(iv) INAPPLICABILITY OF CERTAIN  
9           CERTIFICATION REQUIREMENTS.—

10           “(I) IN GENERAL.—Paragraphs  
11           (1) through (3) of section 3(d) shall  
12           not apply to transfers (including  
13           transfers of United States Govern-  
14           ment sales or grants, or commercial  
15           exports authorized under this chapter)  
16           of defense articles or defense services  
17           to Australia.

18           “(II) REPORT.—The President  
19           shall submit to the Speaker of the  
20           House of Representatives, the Com-  
21           mittee on Foreign Affairs of the  
22           House of Representatives, and the  
23           Committee on Foreign Relations of  
24           the Senate on a semiannual basis a  
25           report on all transfers that would be

1 subject to the requirements of para-  
2 graphs (1) and (2) of section 3(d) but  
3 for the application of subclause (I),  
4 except for marketing or brokering ac-  
5 tivities, temporary imports, or amend-  
6 ments to existing marketing or  
7 brokering licenses. Any such report  
8 shall contain all of the information re-  
9 quired to be contained in certifications  
10 issued pursuant to section 3(d)(1) for  
11 each transfer identified.

12 “(v) AUKUS TRANSFER REPORTING  
13 REQUIREMENTS.—Any United States per-  
14 son transferring a defense item between or  
15 among the United States, the United  
16 Kingdom, and Australia that would have  
17 required a license under this section but  
18 for an exemption issued pursuant to clause  
19 (i) or (ii) of this subsection shall report  
20 that transfer to the Secretary no later than  
21 90 days after the transfer occurs.”.

22 (b) MODIFICATION OF EXCEPTION FOR DEFENSE  
23 TRADE COOPERATION TREATIES.—Subparagraph (D) of  
24 section 38(j)(1) of the Arms Export Control Act (22

1 U.S.C. 2778(j)(1)), as so redesignated by subsection  
2 (a)(1), is further amended—

3 (1) by striking “(D) EXCEPTION” and all that  
4 follows through “(i) IN GENERAL.—The” and insert-  
5 ing “(D) EXCEPTION FOR DEFENSE TRADE CO-  
6 OPERATION TREATIES.—The”;

7 (2) by striking “(I) The Treaty” and inserting  
8 the following:

9 “(i) The Treaty”;

10 (3) by striking “(II) The Treaty” and inserting  
11 the following:

12 “(ii) The Treaty”; and

13 (4) by striking clause (ii) at the end.

14 (c) ADVANCE CERTIFICATION.—Paragraph (3) of  
15 section 38(j) of the Arms Export Control Act (22 U.S.C.  
16 2778(j)) is amended by inserting after “export of defense  
17 items” the following: “subject to the requirements of para-  
18 graph (1)(A)”.

19 **SEC. 3. MODIFICATIONS OF CIVIL AND CRIMINAL PEN-**  
20 **ALTIES UNDER SECTIONS 38 AND 39 OF THE**  
21 **ARMS EXPORT CONTROL ACT.**

22 Subsection (c) of section 38 of the Arms Export Con-  
23 trol Act (22 U.S.C. 2778(c)) is amended—

24 (1) by striking “\$1,000,000” and inserting  
25 “\$5,000,000”; and

1           (2) by striking “20 years” and inserting “25  
2       years”.

3 **SEC. 4. EFFECTIVE DATE.**

4       The amendments made by sections 2 and 3 shall take  
5 effect on the date that is 180 days after the date of the  
6 enactment of this Act.

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