

112TH CONGRESS
2^D SESSION

H. R. 6724

To reform United States export control restrictions relating to commercially-available automotive products and technologies, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 31, 2012

Mr. KELLY introduced the following bill; which was referred to the Committee on Foreign Affairs

A BILL

To reform United States export control restrictions relating to commercially-available automotive products and technologies, 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 “Commercial Auto-
5 motive Products Export Reform Act of 2012”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

8 (1) The economic and national security inter-
9 ests of the United States are enhanced when—

1 (A) the United States military has afford-
2 able and timely access to commercially-available
3 automotive products and technologies, including
4 products and technologies relating to safety, ve-
5 hicle handling, and fuel efficiency; and

6 (B) companies doing business in the
7 United States can freely export commercially-
8 available automotive products and technologies
9 that would not make a significant contribution
10 to the military potential of other countries, ex-
11 cept to countries, organizations, and individuals
12 that are subject to United States trade sanc-
13 tions.

14 (2) The economic and national security inter-
15 ests of the United States are not advanced by export
16 control regulations that restrict the United States
17 military's access to commercially-available auto-
18 motive products and technologies that either—

19 (A) are widely available for use on non-
20 military automotive vehicles; or

21 (B) would not make a significant contribu-
22 tion to the military potential of other countries.

23 (3) Current and proposed United States export
24 control regulations result in unnecessary restrictions

1 on commercially-available automotive products and
2 technologies, including—

3 (A) the need to obtain a license from the
4 Department of State or Department of Com-
5 merce before exporting commercially-available
6 automotive products and technologies if modi-
7 fied even in insignificant ways for use on a mili-
8 tary vehicle; and

9 (B) the need to obtain a license from the
10 Department of State or Department of Com-
11 merce before placing the specifications for such
12 products on a computer system to which a for-
13 eign national worker has access.

14 (4) None of the multilateral export control re-
15 gimes of which the United States is a party requires
16 the export restrictions that currently apply to com-
17 mercially-available automotive products and tech-
18 nologies.

19 (5) The unnecessary restrictions described in
20 this section limit the ability of the United States
21 military to procure commercially-available auto-
22 motive products and technologies in a timely and af-
23 fordable manner, adversely affect the safety and fuel
24 economy of United States military vehicles, put the
25 United States military at a comparative disadvan-

1 tage against its adversaries, create barriers to job
2 creation in the United States, burden taxpayers un-
3 necessarily with increased costs for military vehicles
4 and related parts and components, place unneces-
5 sary regulatory burdens on United States compa-
6 nies, and waste valuable licensing and enforcement
7 resources on controlling the exportation of militarily
8 insignificant products and technologies.

9 **SEC. 3. DEFINITIONS.**

10 In this Act:

11 (1) **AUTOMOTIVE PRODUCTS.**—The term “auto-
12 motive products” means parts, components, acces-
13 sories, and attachments for automotive vehicles.

14 (2) **AUTOMOTIVE TECHNOLOGIES.**—The term
15 “automotive technologies” means technologies relat-
16 ing to automotive products, including the informa-
17 tion, concepts, specifications, schematics, formulas,
18 methods, software and firmware, and techniques
19 needed to manufacture, test, install, implement, op-
20 erate, service, and repair commercially-available
21 automotive products.

22 (3) **AUTOMOTIVE VEHICLES.**—The term “auto-
23 motive vehicles” means wheeled or tracked self-pro-
24 pelled land vehicles and trailers.

1 (4) COMMERCE CONTROL LIST.—The term
2 “Commerce Control List” means the list maintained
3 under part 774 of title 15, Code of Federal Regula-
4 tions.

5 (5) COMMERCIALY-AVAILABLE AUTOMOTIVE
6 PRODUCTS AND TECHNOLOGIES.—

7 (A) IN GENERAL.—The term “commer-
8 cially-available automotive products and tech-
9 nologies” means commercially-available auto-
10 motive products and commercially-available
11 automotive technologies (as described in sub-
12 paragraph (B)) for automotive vehicles that are
13 used on one or more non-military automotive
14 vehicles, including prototypes and concept vehi-
15 cles, including any of the foregoing when sub-
16 jected only to minor modifications (as described
17 in subparagraph (C)).

18 (B) COMMERCIALY-AVAILABLE AUTO-
19 MOTIVE TECHNOLOGIES DESCRIBED.—Commer-
20 cially-available automotive technologies de-
21 scribed in this subparagraph—

22 (i) shall include automotive tech-
23 nologies that are reasonably needed to en-
24 sure that commercially-available auto-
25 motive products function properly on a

1 military automotive vehicle, such as speci-
2 fications and testing requirements nec-
3 essary to supply the commercially-available
4 automotive product for use on the military
5 vehicle; and

6 (ii) shall not include technologies that
7 relate to weaponry, military armor, mili-
8 tary threat detection systems, military re-
9 connaissance or surveillance systems, mili-
10 tary command control and communications
11 systems, or location concealment (other
12 than through sound reduction or applica-
13 tion of paints or coatings not restricted for
14 export under regulations administered by
15 the Department of State or Department of
16 Commerce).

17 (C) MINOR MODIFICATIONS DESCRIBED.—

18 Minor modifications, with respect to commer-
19 cially-available automotive products or commer-
20 cially-available automotive technologies—

21 (i) shall mean modifications of the
22 sort commonly made in the non-military
23 automotive market, including—

- 1 (I) changes from British Impe-
2 rial/SAE sizes to metric sizes or vice
3 versa;
- 4 (II) moving an input or output
5 from one location on an item to an-
6 other;
- 7 (III) changes to the mounting
8 brackets, fastener locations, and other
9 mounting characteristics of an item;
- 10 (IV) changes to voltage require-
11 ments or output;
- 12 (V) increases or decreases in size;
- 13 (VI) changes to data values used
14 by electronic parts (such as entering
15 tire size into a speedometer assembly
16 so that it can calculate speed);
- 17 (VII) changes to the number or
18 configuration of constituent items or
19 technologies (such as changing the
20 number of tires to be included in a
21 tire pressure monitoring system from
22 18 to 6);
- 23 (VIII) selection of a new com-
24 bination of characteristics from exist-
25 ing options in the non-military auto-

1 motive vehicle market even if the
2 exact combination of characteristics
3 has not been used before; and

4 (IX) other changes that would
5 not prevent a product or technology
6 from being a commercial item (as
7 such term is defined under the Fed-
8 eral Acquisition Regulation); and

9 (ii) shall not include any modifications
10 to products or technologies that constitute,
11 control, or directly enhance automotive ve-
12 hicle weaponry, military armor, military
13 threat detection systems, military recon-
14 naissance or surveillance systems, military
15 command control and communications sys-
16 tems, or location concealment (other than
17 through sound reduction or application of
18 paints or coatings not restricted for export
19 under regulations administered by the De-
20 partment of State or Department of Com-
21 merce).

22 (6) EXPORT ADMINISTRATION REGULATIONS.—

23 The term “Export Administration Regulations”
24 means—

1 (A) the Export Administration Regulations
2 as maintained and amended under the authority
3 of the International Emergency Economic Pow-
4 ers Act (50 U.S.C. 1701 et seq.; 15 C.F.R.
5 parts 730–780); or

6 (B) any successor regulations.

7 (7) TECHNOLOGY.—The term “technology” has
8 the meaning given the term in the Export Adminis-
9 tration Regulations (15 C.F.R. 772).

10 (8) UNITED STATES MUNITIONS LIST.—The
11 term “United States Munitions List” means the list
12 referred to in section 38(a)(1) of the Arms Export
13 Control Act (22 U.S.C. 2778(a)(1)).

14 **SEC. 4. ISSUANCE OF PROPOSED REGULATIONS.**

15 (a) IN GENERAL.—Not later than 90 days after the
16 date of the enactment of this Act, the President shall issue
17 proposed regulations to remove from the United States
18 Munitions List and Commerce Control List all commer-
19 cially-available automotive products and technologies,
20 whether listed in sections of such lists devoted specifically
21 to automotive products and technologies or otherwise con-
22 trolled by such lists.

23 (b) EXCEPTION.—Subsection (a) shall not apply with
24 respect to a commercially-available automotive product or
25 technology if the President determines that the removal

1 of such automotive product or technology from the United
2 States Munitions List or Commerce Control List—

3 (1) would make a significant contribution to the
4 military potential of another country; or

5 (2) is contrary to the national security interests
6 of the United States.

7 (c) REPORT TO CONGRESS.—The President shall
8 submit to Congress a report with respect to each deter-
9 mination of the President under subsection (b) not to re-
10 move from the United States Munitions List or Commerce
11 Control List a commercially-available automotive product
12 or technology. Each such report shall—

13 (1) demonstrate that the automotive product or
14 technology has been defined as specifically and nar-
15 rowly as possible;

16 (2) estimate the anticipated costs and burdens
17 that continuing regulation of the automotive product
18 or technology will entail in terms of—

19 (A) decreased availability of the product or
20 technology to the United States military;

21 (B) increased cost of the product or tech-
22 nology to the United States military and tax-
23 payers;

24 (C) burdens to the modernization of the
25 United States military's automotive vehicle fleet

1 as compared with United States adversaries;
2 and

3 (D) the regulatory and enforcement costs
4 associated with monitoring and enforcing such
5 restrictions on the product or technology; and

6 (3) state the reasons why the President did not
7 use targeted trade sanctions imposed through regu-
8 lation or executive order to achieve the objectives un-
9 derlying the determination of the President under
10 subsection (b) not to remove the automotive product
11 or technology from the United States Munitions List
12 or Commerce Control List.

13 **SEC. 5. ISSUANCE OF FINAL REGULATIONS.**

14 (a) IN GENERAL.—Not later than 180 days after the
15 date of the enactment of this Act, the President shall issue
16 final regulations to remove from the United States Muni-
17 tions List and the Commerce Control List all commer-
18 cially-available automotive products and technologies,
19 whether listed in sections of such lists devoted specifically
20 to automotive products and technologies or otherwise con-
21 trolled by such lists.

22 (b) EXCEPTION.—Subsection (a) shall not apply with
23 respect to a commercially-available automotive product or
24 technology that—

1 (1) is subject to a determination of the Presi-
2 dent under section 4(b) not to remove the auto-
3 motive product or technology from the United States
4 Munitions List or Commerce Control List; and

5 (2) with respect to which the President has sub-
6 mitted to Congress a report under section 4(c).

7 **SEC. 6. ANNUAL REVIEW AND REMOVAL; REPORT.**

8 (a) REVIEW AND REMOVAL.—To the extent that the
9 President determines not to remove from the United
10 States Munitions List or Commerce Control List a com-
11 mercially-available automotive product or technology
12 under section 5(b), whether listed in sections of such lists
13 devoted specifically to automotive products and tech-
14 nologies or otherwise controlled by such lists, the Presi-
15 dent shall—

16 (1) on an annual basis, review such determina-
17 tion for purposes of—

18 (A) reaffirming the determination to en-
19 sure it continues to be accurate; or

20 (B) reversing the determination if it is no
21 longer accurate; and

22 (2) not later than 90 days after the completion
23 of a review and decision to reverse the determination
24 under paragraph (1)(B), remove the automotive

1 product or technology from the United States Muni-
2 tions List or Commerce Control List.

3 (b) REPORT.—To the extent that the President deter-
4 mines not to remove from the United States Munitions
5 List or Commerce Control List a commercially-available
6 automotive product or technology under section 5(b),
7 whether listed in sections of such lists devoted specifically
8 to automotive products and technologies or otherwise con-
9 trolled by such lists, the President shall submit to Con-
10 gress an annual report providing the information de-
11 scribed in paragraphs (1), (2), and (3) of section 4(e) with
12 respect to the automotive product or technology.

13 **SEC. 7. CLARIFICATION REGARDING TRADE SANCTIONS.**

14 Nothing in this Act shall be construed to require the
15 President to revoke or alter any restrictions imposed on
16 exports or reexports involving countries, organizations, or
17 individuals who are subject to United States trade sanc-
18 tions, whether imposed by regulation, executive order, or
19 an Act of Congress.

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