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.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Commercial Automotive Products Export Reform Act of 2012”.

SECTION 2. FINDINGS.

Congress finds the following:

(1) The economic and national security interests of the United States are enhanced when—
(A) the United States military has affordable and timely access to commercially-available automotive products and technologies, including products and technologies relating to safety, vehicle handling, and fuel efficiency; and

(B) companies doing business in the United States can freely export commercially-available automotive products and technologies that would not make a significant contribution to the military potential of other countries, except to countries, organizations, and individuals that are subject to United States trade sanctions.

(2) The economic and national security interests of the United States are not advanced by export control regulations that restrict the United States military’s access to commercially-available automotive products and technologies that either—

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

(B) would not make a significant contribution to the military potential of other countries.

(3) Current and proposed United States export control regulations result in unnecessary restrictions
on commercially-available automotive products and technologies, including—

(A) the need to obtain a license from the Department of State or Department of Commerce before exporting commercially-available automotive products and technologies if modified even in insignificant ways for use on a military vehicle; and

(B) the need to obtain a license from the Department of State or Department of Commerce before placing the specifications for such products on a computer system to which a foreign national worker has access.

(4) None of the multilateral export control regimes of which the United States is a party requires the export restrictions that currently apply to commercially-available automotive products and technologies.

(5) The unnecessary restrictions described in this section limit the ability of the United States military to procure commercially-available automotive products and technologies in a timely and affordable manner, adversely affect the safety and fuel economy of United States military vehicles, put the United States military at a comparative disadvan-
tage against its adversaries, create barriers to job
creation in the United States, burden taxpayers un-
necessarily with increased costs for military vehicles
and related parts and components, place unneces-
sary regulatory burdens on United States compa-
nies, and waste valuable licensing and enforcement
resources on controlling the exportation of militarily
insignificant products and technologies.

SEC. 3. DEFINITIONS.

In this Act:

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

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

(3) AUTOMOTIVE VEHICLES.—The term “auto-
motive vehicles” means wheeled or tracked self-pro-
pelled land vehicles and trailers.
(4) **Commerce Control List.**—The term “Commerce Control List” means the list maintained under part 774 of title 15, Code of Federal Regulations.

(5) **Commercially-Available Automotive Products and Technologies.**

(A) **In General.**—The term “commercially-available automotive products and technologies” means commercially-available automotive products and commercially-available automotive technologies (as described in subparagraph (B)) for automotive vehicles that are used on one or more non-military automotive vehicles, including prototypes and concept vehicles, including any of the foregoing when subjected only to minor modifications (as described in subparagraph (C)).

(B) **Commercially-Available Automotive Technologies Described.**—Commercially-available automotive technologies described in this subparagraph—

(i) shall include automotive technologies that are reasonably needed to ensure that commercially-available automotive products function properly on a
military automotive vehicle, such as specifications and testing requirements necessary to supply the commercially-available automotive product for use on the military vehicle; and

(ii) shall not include technologies that relate to weaponry, military armor, military threat detection systems, military reconnaissance or surveillance systems, military command control and communications systems, or location concealment (other than through sound reduction or application of paints or coatings not restricted for export under regulations administered by the Department of State or Department of Commerce).

(C) MINOR MODIFICATIONS DESCRIBED.—

Minor modifications, with respect to commercially-available automotive products or commercially-available automotive technologies—

(i) shall mean modifications of the sort commonly made in the non-military automotive market, including—
(I) changes from British Imperial/SAE sizes to metric sizes or vice versa;

(II) moving an input or output from one location on an item to another;

(III) changes to the mounting brackets, fastener locations, and other mounting characteristics of an item;

(IV) changes to voltage requirements or output;

(V) increases or decreases in size;

(VI) changes to data values used by electronic parts (such as entering tire size into a speedometer assembly so that it can calculate speed);

(VII) changes to the number or configuration of constituent items or technologies (such as changing the number of tires to be included in a tire pressure monitoring system from 18 to 6);

(VIII) selection of a new combination of characteristics from existing options in the non-military auto-
motive vehicle market even if the exact combination of characteristics has not been used before; and

(IX) other changes that would not prevent a product or technology from being a commercial item (as such term is defined under the Federal Acquisition Regulation); and

(ii) shall not include any modifications to products or technologies that constitute, control, or directly enhance automotive vehicle weaponry, military armor, military threat detection systems, military reconnaissance or surveillance systems, military command control and communications systems, or location concealment (other than through sound reduction or application of paints or coatings not restricted for export under regulations administered by the Department of State or Department of Commerce).

(6) EXPORT ADMINISTRATION REGULATIONS.—The term “Export Administration Regulations” means—
(A) the Export Administration Regulations as maintained and amended under the authority of the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.; 15 C.F.R. parts 730–780); or

(B) any successor regulations.

(7) TECHNOLOGY.—The term “technology” has the meaning given the term in the Export Administration Regulations (15 C.F.R. 772).

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

SEC. 4. ISSUANCE OF PROPOSED REGULATIONS.

(a) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the President shall issue proposed regulations to remove from the United States Munitions List and Commerce Control List all commercially-available automotive products and technologies, whether listed in sections of such lists devoted specifically to automotive products and technologies or otherwise controlled by such lists.

(b) EXCEPTION.—Subsection (a) shall not apply with respect to a commercially-available automotive product or technology if the President determines that the removal
of such automotive product or technology from the United States Munitions List or Commerce Control List—

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

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

(c) REPORT TO CONGRESS.—The President shall submit to Congress a report with respect to each determination of the President under subsection (b) not to remove from the United States Munitions List or Commerce Control List a commercially-available automotive product or technology. Each such report shall—

(1) demonstrate that the automotive product or technology has been defined as specifically and narrowly as possible;

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

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

(B) increased cost of the product or technology to the United States military and taxpayers;

(C) burdens to the modernization of the United States military’s automotive vehicle fleet
as compared with United States adversaries;

and

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

(3) state the reasons why the President did not use targeted trade sanctions imposed through regulation or executive order to achieve the objectives underlying the determination of the President under subsection (b) not to remove the automotive product or technology from the United States Munitions List or Commerce Control List.

SEC. 5. ISSUANCE OF FINAL REGULATIONS.

(a) In General.—Not later than 180 days after the date of the enactment of this Act, the President shall issue final regulations to remove from the United States Munitions List and the Commerce Control List all commercially-available automotive products and technologies, whether listed in sections of such lists devoted specifically to automotive products and technologies or otherwise controlled by such lists.

(b) Exception.—Subsection (a) shall not apply with respect to a commercially-available automotive product or technology that—
(1) is subject to a determination of the President under section 4(b) not to remove the automotive product or technology from the United States Munitions List or Commerce Control List; and

(2) with respect to which the President has submitted to Congress a report under section 4(c).

SEC. 6. ANNUAL REVIEW AND REMOVAL; REPORT.

(a) REVIEW AND REMOVAL.—To the extent that the President determines not to remove from the United States Munitions List or Commerce Control List a commercially-available automotive product or technology under section 5(b), whether listed in sections of such lists devoted specifically to automotive products and technologies or otherwise controlled by such lists, the President shall—

(1) on an annual basis, review such determination for purposes of—

(A) reaffirming the determination to ensure it continues to be accurate; or

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

(2) not later than 90 days after the completion of a review and decision to reverse the determination under paragraph (1)(B), remove the automotive
product or technology from the United States Munitions List or Commerce Control List.

(b) REPORT.—To the extent that the President determines not to remove from the United States Munitions List or Commerce Control List a commercially-available automotive product or technology under section 5(b), whether listed in sections of such lists devoted specifically to automotive products and technologies or otherwise controlled by such lists, the President shall submit to Congress an annual report providing the information described in paragraphs (1), (2), and (3) of section 4(c) with respect to the automotive product or technology.

SEC. 7. CLARIFICATION REGARDING TRADE SANCTIONS.

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