

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 8315
OFFERED BY MR. MCCAUL OF TEXAS**

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

2 (a) **SHORT TITLE.**—This Act may be cited as the
3 “Enhancing National Frameworks for Overseas Restric-
4 tion of Critical Exports Act” or the “ENFORCE Act”.

5 (b) **TABLE OF CONTENTS.**—The table of contents for
6 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Definitions.

Sec. 3. Authority of the President.

Sec. 4. Additional authorities.

Sec. 5. Requirements to identify and control the export of emerging and
foundational technologies.

Sec. 6. Conforming amendment to International Emergency Economic Powers
Act.

7 SEC. 2. DEFINITIONS.

8 Section 1742 of the Export Control Reform Act of
9 2018 (50 U.S.C. 4801) is amended by adding at the end
10 the following:

11 “(15) **ADDITIONAL DEFINITIONS.**—

12 “(A) **ARTIFICIAL INTELLIGENCE.**—The
13 term ‘artificial intelligence’ has the meaning
14 given that term in section 5002(3) of the Na-

1 tional Artificial Intelligence Initiative Act of
2 2020 (15 U.S.C. 9401(3)).

3 “(B) ARTIFICIAL INTELLIGENCE SYS-
4 TEM.—The term ‘artificial intelligence system’
5 means any software or hardware implementa-
6 tion of artificial intelligence, including artificial
7 intelligence model weights and any numerical
8 parameters associated with the artificial intel-
9 ligence implementation.

10 “(C) COVERED ARTIFICIAL INTELLIGENCE
11 SYSTEM.—

12 “(i) INTERIM DEFINITION.—For the
13 period beginning on the date of the enact-
14 ment of this paragraph and ending on the
15 date on which the Secretary issues the reg-
16 ulations required by clause (ii), the term
17 ‘covered artificial intelligence system’
18 means an artificial intelligence system
19 that—

20 “(I) exhibits, or could foreseeably
21 be modified to exhibit, capabilities in
22 the form of high levels of performance
23 at tasks that pose a serious risk to
24 the national security and foreign pol-
25 icy of the United States or any com-

1 bination of those matters, even if it is
2 provided to end users with technical
3 safeguards that attempt to prevent
4 users from taking advantage of the
5 relevant capabilities, such as by—

6 “(aa) substantially lowering
7 the barrier of entry for experts or
8 non-experts to design, synthesize,
9 acquire, or use chemical, biological,
10 cal, radiological, or nuclear
11 (CBRN) weapons or weapons of
12 mass destruction;

13 “(bb) enabling offensive
14 cyber operations through auto-
15 mated vulnerability discovery and
16 exploitation against a wide range
17 of potential targets of cyber at-
18 tacks; or

19 “(cc) permitting the evasion
20 of human control or oversight
21 through means of deception or
22 obfuscation; or

23 “(II) can reasonably be expected
24 to exhibit the capabilities described in
25 subclause (I), such as by dem-

1 onstrating technical similarity or
2 equivalent performance to models in
3 which relevant capabilities have
4 emerged unexpectedly.

5 “(ii) FINAL DEFINITION.—

6 “(I) IN GENERAL.—Not later
7 than 365 days after the date of the
8 enactment of this paragraph, the Sec-
9 retary, in consultation with the Sec-
10 retary of State, the Secretary of De-
11 fense, the Secretary of Energy, and
12 other parts of the United States gov-
13 ernment, industry, and academia, as
14 appropriate, shall issue regulations de-
15 fining the term ‘covered artificial in-
16 telligence system’ for purposes of this
17 subtitle. Thereafter, the Secretary, in
18 consultation with the Secretary of
19 State, the Secretary of Defense, and
20 the Secretary of Energy, shall update
21 the definition of such term as nec-
22 essary.

23 “(II) FACTORS.—In developing
24 the definition of the term ‘covered ar-
25 tificial intelligence system’ under this

1 clause, the Secretary, in consultation
2 with the Secretary of State, the Sec-
3 retary of Defense, and the Secretary
4 of Energy, shall consider technical
5 and non-technical factors, and only
6 identify technologies that pose a seri-
7 ous risk to the national security and
8 foreign policy of the United States.

9 “(III) CONGRESSIONAL CON-
10 SULTATION.—The Secretary may pro-
11 vide such regulations to the Com-
12 mittee on Foreign Affairs of the
13 House of Representatives and the
14 Committee on Banking, Housing, and
15 Urban Affairs of the Senate not fewer
16 than 15 days before the Secretary
17 publishes regulations described under
18 subclause (I).

19 “(D) MODEL WEIGHT.—The term ‘model
20 weight’ means a numerical parameter within an
21 artificial intelligence model that helps determine
22 the model’s outputs in response to inputs.”.

1 **SEC. 3. AUTHORITY OF THE PRESIDENT.**

2 Section 1753(a) of the Export Control Reform Act
3 of 2018 (50 U.S.C. 4812(a)) is amended by adding at the
4 end the following:

5 “(d) **ADDITIONAL AUTHORITY.**—

6 “(1) **IN GENERAL.**—In order to carry out the
7 policy set forth in paragraphs (1) through (10) of
8 section 1752, the President may control the activi-
9 ties of United States persons, wherever located, re-
10 lating to specific covered artificial intelligence sys-
11 tems and emerging and foundational technologies
12 that are identified as essential to the national secu-
13 rity of the United States pursuant to section
14 1758(a).

15 “(2) **SUNSET.**—The authority under paragraph
16 (1) shall terminate on the date that is 5 years after
17 the date of the enactment of such paragraph.”.

18 **SEC. 4. ADDITIONAL AUTHORITIES.**

19 Section 1754(d) of the Export Control Reform Act
20 of 2018 (50 U.S.C. 4813(d)) is amended by adding at the
21 end the following:

22 “(3) **ADDITIONAL AUTHORITIES.**—In further-
23 ance of section 1753(a), the President may require
24 a United States person, wherever located, to apply
25 for and receive a license from the Department of
26 Commerce for—

1 “(A) the export, reexport, or in-country
2 transfer of items described in paragraph (4), in-
3 cluding items that are not subject to control
4 under this subchapter; and

5 “(B) other activities that may support the
6 design, development, production, use, operation,
7 installation, maintenance, repair, overhaul, or
8 refurbishing of, or for the performance of serv-
9 ices relating to, any items described in para-
10 graph (4).

11 “(4) ITEMS DESCRIBED.—The items described
12 in this paragraph include—

13 “(A) covered artificial intelligence systems;
14 and

15 “(B) specific emerging and foundational
16 technologies that are identified as essential to
17 the national security of the United States pur-
18 suant to section 1758(a).

19 “(5) SUNSET.—The authority under paragraph
20 (3) shall terminate on the date that is 5 years after
21 the date of the enactment of such paragraph.”.

1 **SEC. 5. REQUIREMENTS TO IDENTIFY AND CONTROL THE**
2 **EXPORT OF EMERGING AND FOUNDATIONAL**
3 **TECHNOLOGIES.**

4 Section 1758(b)(4)(A) of the Export Control Reform
5 Act of 2018 (50 U.S.C. 4817(b)(4)(A)) is amended to
6 read as follows:

7 “(A) MANDATORY EXCEPTION.—The Sec-
8 retary may not control under this subsection
9 the export of any technology if the regulation of
10 the export of that technology is prohibited
11 under any other provision of law.”.

12 **SEC. 6. CONFORMING AMENDMENT TO INTERNATIONAL**
13 **EMERGENCY ECONOMIC POWERS ACT.**

14 Section 203(b)(3) of the International Emergency
15 Economic Powers Act (50 U.S.C. 1702(b)(3)) is amended
16 by striking “section 5 of the Export Administration Act
17 of 1979, or under section 6 of such Act to the extent that
18 such controls promote the nonproliferation or
19 antiterrorism policies of the United States” and inserting
20 “section 1753 of the Export Control Reform Act of 2018
21 and regulated or prohibited pursuant to section 1754 or
22 section 1758 of such Act”.

