

**AMENDMENT TO H.R. 6395, AS REPORTED
OFFERED BY MR. MALINOWSKI OF NEW JERSEY**

At the appropriate place in title XII, insert the following:

1 **SEC. 12 . AUTHORITY TO CONTROL ITEMS AND SERVICES**
2 **THAT INCLUDE FACIAL RECOGNITION TECH-**
3 **NOLOGIES.**

4 Section 1754 of the Export Control Reform Act of
5 2018 (50 U.S.C. 4813) is amended by adding at the end
6 the following:

7 “(g) **AUTHORITY TO CONTROL ITEMS AND SERVICES**
8 **THAT INCLUDE FACIAL RECOGNITION TECHNOLOGIES.—**

9 “(1) **LICENSE REQUIREMENT.—**

10 “(A) **IN GENERAL.—**The Secretary shall
11 issue regulations to require a license and im-
12 pose a policy of presumption of denial for any
13 request for the export, reexport, or in-country
14 transfer of items subject to the jurisdiction of
15 the United States, whether by United States
16 persons or by foreign persons, or the provision
17 of services by any United States person, to cov-
18 ered foreign countries if, at the time of export,
19 reexport, or in-country transfer—

1 “(i) the item or service includes facial
2 recognition technology; and

3 “(ii) the item or service includes re-
4 mote or en-suite access to a database of
5 photographs of United States persons.

6 “(B) NOTICE AND COMMENT.—The regula-
7 tions required under subparagraph (A) shall in-
8 clude a notice and comment period before a
9 final rule is published.

10 “(2) CONTROL OF ITEMS AND SERVICES.—

11 “(A) MULTILATERAL CONTROLS.—

12 “(i) IN GENERAL.—The Secretary of
13 State, in consultation with the Secretary
14 and the heads of other Federal agencies,
15 as appropriate, shall propose that any item
16 or service controlled pursuant to paragraph
17 (1) be added to the lists of items and serv-
18 ices controlled by the relevant multilateral
19 export control regimes.

20 “(ii) WASSENAAR ARRANGEMENT.—If
21 the Secretary of State proposes to a multi-
22 lateral export control regime under clause
23 (i) to add an item or service controlled
24 pursuant to paragraph (1) to the control
25 list of that regime and the regime and the

1 item or service is not within the charter or
2 other organizing document of the regime,
3 the Secretary of State shall engage in ro-
4 bust efforts to seek to convince the mem-
5 bers and leadership of the Wassenaar Ar-
6 rangement to modify the Wassenaar Ar-
7 rangement's charter so that the item or
8 service is identified on the Wassenaar Ar-
9 rangement's List of Dual-Use Goods and
10 Technologies and Munitions List, agreed to
11 on July 12, 1996, or any subsequent revi-
12 sion of those Lists.

13 “(iii) OTHER NATO MEMBER STATES
14 AND CLOSE ALLIES.—Unless and until
15 items and services controlled pursuant to
16 paragraph (1) are controlled in accordance
17 with clause (ii), as the case may be, the
18 Secretary of State shall engage in robust
19 efforts to urge the governments of other
20 member states of the North Atlantic Trea-
21 ty Organization (NATO) and other close
22 allies of the United States to revise their
23 domestic laws as necessary to unilaterally
24 adopt similar controls over such items and
25 services.

1 “(B) UNILATERAL CONTROLS.—If the Sec-
2 retary of State proposes to a multilateral export
3 control regime under subparagraph (A) to add
4 an item or service controlled pursuant to para-
5 graph (1) to the control list of that regime and
6 that regime does not add the item or service to
7 the control list during the 3-year period begin-
8 ning on the date of the proposal, the Secretary
9 of State, in coordination with the Secretary,
10 shall determine whether the national security
11 objectives of the United States of regulating
12 such items or services warrants continued uni-
13 lateral controls with respect to the item or serv-
14 ice.

15 “(3) DEFINITIONS.—In this subsection:

16 “(A) COVERED FOREIGN COUNTRY.—The
17 term ‘covered foreign country’ means any coun-
18 try the government of which is listed in the an-
19 nual human rights report required under sec-
20 tion 116(d) of the Foreign Assistance Act of
21 1961 (22 U.S.C. 2151n(d)) for systematic acts
22 of political repression, including arbitrary arrest
23 or detention, torture, extrajudicial or politically
24 motivated killing, or other gross violations of
25 human rights.

1 “(B) FACIAL RECOGNITION.—The term
2 ‘facial recognition’ means an automated or
3 semi-automated process that assists in identi-
4 fying or verifying an individual based on the
5 physical characteristics of an individual’s face
6 geometry.

7 “(C) FACIAL RECOGNITION TECH-
8 NOLOGY.—The term ‘facial recognition tech-
9 nology’ means any computer software or appli-
10 cation that performs facial recognition.”.

