

119TH CONGRESS
1ST SESSION

S. 3150

To require entities seeking a license to export advanced artificial intelligence chips to countries of concern to certify that United States persons have priority in acquiring those chips.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 6, 2025

Mr. BANKS (for himself, Ms. WARREN, Mr. COTTON, Mr. SCHUMER, Mr. MCCORMICK, and Mr. COONS) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To require entities seeking a license to export advanced artificial intelligence chips to countries of concern to certify that United States persons have priority in acquiring those chips.

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 “Guaranteeing Access
5 and Innovation for National Artificial Intelligence Act of
6 2025” or the “GAIN AI Act of 2025”.

1 **SEC. 2. PROHIBITION ON PRIORITIZING COUNTRIES OF**
 2 **CONCERN OVER UNITED STATES PERSONS**
 3 **FOR EXPORTS OF ADVANCED INTEGRATED**
 4 **CIRCUITS.**

5 Part I of the Export Control Reform Act of 2018 (50
 6 U.S.C. 4811 et seq.) is amended by inserting after section
 7 1758 the following:

8 **“SEC. 1758A. CONTROL OF EXPORTS OF ADVANCED INTE-**
 9 **GRATED CIRCUITS.**

10 “(a) DEFINITIONS.—In this section:

11 “(1) ADVANCED INTEGRATED CIRCUIT.—

12 “(A) IN GENERAL.—Subject to subpara-
 13 graph (B), the term ‘advanced integrated cir-
 14 cuit’ means—

15 “(i) an integrated circuit, computer,
 16 or other product—

17 “(I) classified under Export Con-
 18 trol Classification Number 3A090 or
 19 4A090 or related Export Control
 20 Classification Numbers; or

21 “(II) that is functionally equiva-
 22 lent or substantially similar to a cir-
 23 cuit, computer, or product described
 24 in subclause (I); or

25 “(ii) an integrated circuit that has
 26 one or more digital processing units with—

1 “(I) a total processing perform-
2 ance of 4,800 or more;

3 “(II) a total processing perform-
4 ance of 2,400 or more and a perform-
5 ance density of 1.6 or more;

6 “(III) a total processing perform-
7 ance of 1,600 or more and a perform-
8 ance density of 3.2 or more; or

9 “(IV) a total DRAM bandwidth
10 of 1,400 gigabytes per second or
11 more, interconnect bandwidth of
12 1,100 gigabytes per second or more,
13 or a sum of DRAM bandwidth and
14 interconnect bandwidth of 1,700
15 gigabytes per second or more.

16 “(B) AUTHORITY TO UPDATE TECHNICAL
17 PARAMETERS.—Beginning 36 months after the
18 date of the enactment of this section, the Under
19 Secretary may add new technical parameters
20 for the definition of ‘advanced integrated cir-
21 cuit’ for purposes of this section following publi-
22 cation of the parameters in the Federal Reg-
23 ister and a period of public notice and com-
24 ment.

1 “(2) BACKLOG OF REQUESTS.—The term ‘back-
2 log of requests’, in the case of a person submitting
3 an application for a license under subsection (b),
4 means the person has received a request from a
5 United States person for a covered circuit or product
6 that—

7 “(A) is formally documented through—

8 “(i) a purchase order or enforceable
9 contract; or

10 “(ii) any other format consistent with
11 ordinary commercial practice that specifies
12 quantity, price, and time frame of delivery;
13 and

14 “(B) the person has not fulfilled or will not
15 be able to fulfill the request within a time frame
16 consistent with commercially standard produc-
17 tion and delivery lead times.

18 “(3) COMMERCE CONTROL LIST.—The term
19 ‘Commerce Control List’ means the list set forth in
20 Supplement No. 1 to part 774 of the Export Admin-
21 istration Regulations.

22 “(4) COUNTRY OF CONCERN.—The term ‘coun-
23 try of concern’ means—

“(A) a country listed in Country Group D:5 or E in Supplement No. 1 to part 740 of the Export Administration Regulations;

“(B) the Macau Special Administrative Region of the People’s Republic of China; or

“(C) the Hong Kong Special Administrative Region of the People’s Republic of China.

“(5) COVERED CIRCUIT OR PRODUCT.—

“(A) IN GENERAL.—Except as provided by subparagraph (B), the term ‘covered circuit or product’ means an advanced integrated circuit or a product containing such a circuit.

“(B) EXCLUSION.—The term ‘covered circuit or product’ does not include an advanced integrated circuit or a product containing such a circuit that is not designed or marketed for data centers.

“(6) PERFORMANCE DENSITY; TOTAL PROCESSING PERFORMANCE.—The terms ‘performance density’ and ‘total processing performance’ have the meanings given those terms in, and are calculated as provided for under, Export Control Classification Number 3A090 in the Commerce Control List set forth in Supplement No. 1 to part 774 of the Export Administration Regulations.

1 “(7) TRUSTED UNITED STATES PERSON.—The
 2 term ‘trusted United States person’ means any
 3 United States person designated as a trusted United
 4 States person pursuant to subsection (d)(2).

5 “(b) LICENSE REQUIREMENT.—The Under Secretary
 6 of Commerce for Industry and Security shall require a li-
 7 cense for the export, reexport, or in-country transfer of
 8 a covered circuit or product to an entity that is located
 9 or headquartered in, or the ultimate parent company of
 10 which is headquartered in, a country of concern.

11 “(c) CERTIFICATION OF PRIORITY FOR UNITED
 12 STATES CUSTOMERS FOR CERTAIN ADVANCED INTE-
 13 GRATED CIRCUITS.—

14 “(1) CERTIFICATION REQUIREMENT.—The
 15 Under Secretary shall require a person submitting
 16 an application for a license under subsection (b) for
 17 the export, reexport, or in-country transfer of a cov-
 18 ered circuit or product to an entity described in sub-
 19 section (b) to certify in the application that—

20 “(A) United States persons had a right of
 21 first refusal for the covered circuit or product,
 22 which means the person submitting the applica-
 23 tion—

24 “(i) provided, through a public notice,
 25 United States persons with the opportunity

1 to inquire about purchasing a covered cir-
2 cuit or product that would otherwise be
3 sold to an entity described in subsection
4 (b);

5 “(ii) provided not fewer than 15 busi-
6 ness days for a United States person to in-
7 quire and request to purchase the covered
8 circuit or product; and

9 “(iii) provided preference to a United
10 States person submitting an inquiry under
11 clause (i) if the United States person—

12 “(I) requests to purchase the full
13 quantity or a lesser quantity of the
14 covered circuit or product offered by
15 the person submitting the application;
16 and

17 “(II) takes material steps to
18 complete the purchase within 15 busi-
19 ness days of requesting to purchase
20 the covered circuit or product; and

21 “(B) the person submitting the applica-
22 tion—

23 “(i) has no current backlog of re-
24 quests from United States persons for the
25 covered circuit or product or a comparable

1 circuit or product that utilizes substan-
2 tially similar production process, infra-
3 structure, or supply;

4 “(ii) cannot reasonably foresee, based
5 on material information known to the per-
6 son, including information disclosed to in-
7 vestors or shareholders or in public filings,
8 the production and export, reexport, or in-
9 country transfer of the covered circuit or
10 product resulting, during the 12-month pe-
11 riod following the export, reexport, or in-
12 country transfer, in—

13 “(I) such a backlog; or

14 “(II) a reduction in critical pro-
15 duction capacity for the production of
16 a covered circuit or product or a sub-
17 stantially similar circuit or product
18 that utilizes substantially similar pro-
19 duction process, infrastructure, or
20 supply for United States persons; and

21 “(iii) is not providing advantageous
22 pricing or terms for the covered circuit or
23 product to foreign persons that the person
24 is not providing to United States persons.

1 “(2) DENIAL OF APPLICATIONS WITHOUT CER-
2 TIFICATION.—If a certification described in para-
3 graph (1) is not submitted with an application for
4 a license required under subsection (b), the Under
5 Secretary shall deny the license.

6 “(3) IMPLEMENTATION.—Not later than 90
7 days after the date of the enactment of this section,
8 the Under Secretary shall—

9 “(A) seek input from the public regarding
10 compliance with the certification requirements
11 under paragraph (1); and

12 “(B) based on such input, prescribe regu-
13 lations providing guidance for compliance with
14 the certification requirements, which shall in-
15 clude—

16 “(i) information that the person sub-
17 mitting an application for a license under
18 subsection (b) is required to make avail-
19 able about transactions with entities de-
20 scribed in subsection (b) to ensure that
21 United States persons can exercise a right-
22 of-first-refusal under paragraph (1)(A);

23 “(ii) procedures for United States
24 persons to exercise such a right-of-first-re-
25 fusal, including—

1 “(I) the procedural requirements
2 for public notice under paragraph
3 (1)(A)(i); and

4 “(II) guidance on when a United
5 States person should inform the
6 Under Secretary of Commerce for In-
7 dustry and Security that the person is
8 seeking to exercise the right-of-first-
9 refusal under paragraph (1)(A);

10 “(iii) conditions upon which a person
11 submitting an application for a license
12 under subsection (b) may proceed with the
13 export, reexport, or in-country transfer of
14 the covered circuit or product if a request
15 from a United States person under para-
16 graph (1)(A) to purchase the covered cir-
17 cuit or product was not made in good faith
18 or completed in a timely manner;

19 “(iv) recordkeeping requirements;

20 “(v) penalties for misrepresentation
21 and concealment of material facts; and

22 “(vi) guidance with respect to deter-
23 mining whether—

24 “(I) a United States person exer-
25 cising the right-of-first-refusal has

1 taken a material step under para-
2 graph (1)(A)(iii)(II);

3 “(II) the export, reexport, or in-
4 country transfer of a covered circuit
5 or product would create—

6 “(aa) a backlog of requests
7 described in paragraph (1)(B)(i);
8 or

9 “(bb) a reduction in critical
10 production capacity described in
11 paragraph (1)(B)(ii)(II); and

12 “(III) the person selling the cir-
13 cuit or product is providing advan-
14 tageous pricing or terms to foreign
15 persons as described in paragraph
16 (1)(B)(iii).

17 “(4) RULES OF CONSTRUCTION.—Nothing in
18 this subsection shall be construed—

19 “(A) in the case of more than one United
20 States person requesting to purchase a covered
21 circuit or product under paragraph (1)(A)(iii),
22 to authorize the Under Secretary of Commerce
23 for Industry and Security, or any other Federal
24 official, to allocate, prioritize, or otherwise se-
25 lect one United States person over any other

1 United States person submitting such a re-
 2 quest;

3 “(B) to require a person submitting an ap-
 4 plication for a license under subsection (b) to
 5 publicly disclose commercially sensitive or pro-
 6 prietary information, including—

7 “(i) customer identities;

8 “(ii) contract terms;

9 “(iii) delivery schedules; or

10 “(iv) pricing data; or

11 “(C) as applying to a covered circuit prod-
 12 uct that is designed and manufactured exclu-
 13 sively for internal use.

14 “(d) EXEMPTION FROM CERTAIN LICENSE RE-
 15 QUIREMENT FOR TRUSTED UNITED STATES PERSONS.—

16 “(1) IN GENERAL.—The requirement for a li-
 17 cense under sections 742.4 and 744.23 of the Ex-
 18 port Administration Regulations shall not apply to
 19 the export, reexport, or in-country transfer of a cov-
 20 ered circuit or product if the covered circuit or prod-
 21 uct—

22 “(A) is destined for a country that is not
 23 a country of concern; and

1 “(B) remains under the ownership and
2 control of a trusted United States person once
3 the covered circuit or product is in operation.

4 “(2) IMPLEMENTATION.—Not later than 90
5 days after the date of the enactment of this section,
6 the Under Secretary of Commerce for Industry and
7 Security shall—

8 “(A) seek input from the public regarding
9 the standards and requirements a United
10 States person is required to meet to obtain a
11 designation as a trusted United States person;
12 and

13 “(B) based on such input, prescribe regu-
14 lations establishing such standards and require-
15 ments, which shall include—

16 “(i) establishment by the United
17 States person of physical security, cyberse-
18 curity, and other measures designed to
19 prevent the illicit transfer or diversion of
20 covered circuit products and comply with
21 export control regulations;

22 “(ii) a requirement that the United
23 States person may not transfer or install a
24 majority of its aggregate total processing

1 performance of covered circuits or products
2 outside the United States;

3 “(iii) a requirement that not more
4 than 10 percent of the ultimate beneficial
5 ownership of the United States person may
6 be held, directly or indirectly, by any entity
7 that primarily resides, is domiciled, or con-
8 ducts the majority of its business in a
9 country of concern;

10 “(iv) a preference for sourcing ad-
11 vanced integrated circuit and subcompo-
12 nents from production facilities that sup-
13 port the revival of semiconductor manufac-
14 turing in the United States; and

15 “(v) annual audit or attestation re-
16 quirements to ensure compliance with
17 clauses (i), (ii), and (iii); and

18 “(C) prescribe regulations establishing the
19 process by which the Under Secretary shall ap-
20 prove such a designation.”.

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